1640

SUPREME COURT OF THE UNITED STATES.

No. 179.

NATHANIEL HOYT AND JAMES BLANDIN, ADMINISTRATORS, &c., AND THE SAID JAMES BLANDIN, WILLIAM M. HUDSON, AND JOSEPHINE, HIS WIFE, HEIRS OF ANTONIO BLANDIN, DECEASED, AND ELISHA M. PEASE, APPELLANTS,

vs.

GEORGE S. HAMMEKIN, AND ADELAIDE MATILDA, HIS WIFE.

APPEAL FROM DISTRICT COURT, UNITED STATES, FOR THE DISTRICT OF TEXAS.

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In the district court of the United States, for the district of Texas, May term, 1848.

[SEAL.]

GEORGE L. HAMMEKIN & WIFE
vs.
NATHANIEL HOYT AND OTHERS. } In equity.

Transcript for the Supreme Court of the United States.

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

At a district court of the United States, having and exercising the powers and jurisdiction of a circuit court of the same for the district of Texas, begun and held at the city of Galveston, in the said district, on the first Monday in May, in the year of our Lord one thousand eight hundred and forty-eight: Present, the honorable John C. Watrous, judge of the said district; George W. Brown, esq., attorney; James H. Coke, marshal; and Thomas Bates, esq., clerk. Among others were the following proceedings, to wit:

GEORGE L. HAMMEKIN and Adelaide Matilda, his wife
vs.
NATHANIEL HOYT, James Blandin, administrators, &c., and the said James Blandin, William M. Hudson, and Josephine, his wife. } In equity.

Be it remembered, that heretofore, to wit, on the twenty-second day of April, in the year of our Lord one thousand eight hundred and forty-eight, the said George L. Hammekin and Adelaide Matilda, his wife, by their solicitors, Robert Rose and Robert Hughes, filed in the district court here their original bill, complaining against the said Nathaniel Hoyt and James Blandin, administrators, &c., and the said James Blandin, and William M. Hudson and Josephine, his wife, late Josephine Blandin, in the words, and of the tenor following, to wit:

To the honorable John C. Watrous, judge of the United States district court, for the district of Texas.

George L. Hammekin, and Adelaide Matilda, his wife, late Adelaide Matilda Mexia, citizens of the State of Louisiana, bring this their bill of complaint against Nathaniel Hoyt, and James Blandin, administrators, &c., and the said James Blandin, and Wm. M. Hudson and Josephine, his wife, late Josephine Blandin, heirs of Antonio Blandin, deceased, citizens of the State of Texas.

And thereupon your orator and oratrix complain, that on the 23d day of November, 1833, the government of the State of Coahuila and Texas, acting by and through its regularly constituted agents, granted, conceded, and conveyed, according to the laws and usages of said State, unto your oratrix eleven leagues of land, of the value of fifty thousand dollars, situated on the river Navasota, formerly in the department of Nacogdoches, in said State, now in the State and district of Texas aforesaid, above and adjoining the survey of Andres Varela, as will fully and at large appear by reference to the field notes contained within said grant, which will be filed before the hearing if necessary, or when required as evidence in this cause.

Your orator and oratrix would further represent unto your honor, that afterwards, to wit, on or about the 10th of February, 1836, a certain Antonio Mexia, the father of your oratrix, upon some supposed necessity of having the legal estate vested in a citizen or resident of the then State where said grant was situated, and without any good or valuable consideration whatever, sold and conveyed, or attempted to sell and convey, said land to a certain John A. Merle, by authentic act, before a notary public of the State of Louisiana, and not according to any law which is now, or ever was, in force in the State or Republic of Texas, or in the State of Coahuila and Texas; and the said John A. Merle, by a like authentic act before a notary public, in the State of Louisiana, declared that said grant of eleven leagues of land was purchased by him with the funds of said Antonio Blandin, and on his, said Blandin's, account, when, in truth and in fact, said purchase was made for the purpose aforesaid, and without consideration as aforesaid.

Your orator and oratrix would further represent unto your honor, that said Antonio Blandin has departed this life intestate, and said Nathaniel Hoyt and James Blandin have been duly appointed administrators, &c., upon the succession, and the said Josephine Hudson and James Blandin are heirs-at-law of said Antonio Blandin, deceased; and your orator and oratrix are advised that, notwithstanding the pretended sale and declaration aforesaid, the right to the eleven leagues of land aforesaid is in your oratrix, and that she is the indefeasible owner of the same, and yet the said administrator and heirs claim to hold the said land in their own right by descent from their ancestor, and by this means a cloud is impending over the title of your orator and oratrix.

All of which is contrary to equity, &c., and forasmuch as, &c.; to the end, therefore, that the said Nathaniel Hoyt, James Blandin, William M. Hudson and wife, may be made parties to this bill, and upon their several and respective corporal oaths true and perfect answers thereto may be compelled to make, and particularly according to the best of their knowledge, information, and belief, may answer and say whether the statements and charges, or either of them, or any part thereof, are untrue. And that, by decree to be rendered herein, the said sale by the father of your oratrix may be declared illegal and void, or if this cannot be done, that said heirs and representatives may

be held trustees of the legal estate in said land for the benefit of your oratrix, subject to an account of such expenses or advances as may have been in good faith made by said Blandin, deceased, for the benefit of your orator and oratrix; and that they be compelled to convey to your oratrix, or that your orator and oratrix, or one of them, may have such other and further relief as the nature of the case may require, may it please your honor to grant unto your orator and oratrix the United States writ of subpœna, directed, &c., commanding, &c.; and your orator and oratrix, as in duty bound, will ever pray, &c.

ROSE & HUGHES,
For complainants.

And thereupon, on the same day, to wit, on the 22d day of April, 1848, subpœnas were issued in due form from the said district court in the words and of the tenor following, to wit:

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America, to Nathaniel Hoyt, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday in May next, or whensoever the said court shall there be, to answer a bill exhibited against you and others by George L. Hammekin and Adelaide Matilda, his wife, late Adelaide Matilda Mexia, and to do further and receive what the said court shall have considered in that behalf.

And this you are not to omit under the penalty of two hundred and fifty dollars.

Witness the hon. John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this 22d day of April, [L. S.] A. D. eighteen hundred and forty-eight, and seventy-second year of the independence of the United States.

THOS. BATES, *Clerk.*

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday of June next, otherwise the bill will be taken as confessed.

THOS. BATES, *Clerk.*

On which said subpœna is the following endorsement of return, to wit:

Received the 22d day of April, 1848, and executed on the 23d day of April, 1848, by serving the defendant in person with a true copy of this subpœna as furnished by the clerk of this court.

JAS. H. COKE, *Marshal,*
By H. B. MARTIN, *Dep. marshal.*

THE UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America, to James Blandin, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of [the] circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of May next, or whensoever the said court shall there be, to answer a bill exhibited against you and others by George L. Hammekin and Adelaide Matilda, his wife, late Adelaide Matilda Mexia, and to do further and receive what the said court shall have considered in that behalf.

And this you are not to omit, under the penalty of two hundred and fifty dollars.

Witness the hon. John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this 22d day of April, eighteen hundred and forty-eight, and seventy-second year of the independence of the United States.

[L. S.]

THOS. BATES, *Clerk.*

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday of June next, otherwise the bill will be taken as confessed.

THOS. BATES, *Clerk.*

Upon which said subpœna is the following endorsement of return, to wit:

Received the 22d April, 1848; not found for want of time.

JAS. H. COKE, *Marshal,*
By H. B. MARTIN, *Dep. marshal.*

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America, to William M. Hudson and Josephine, his wife, late Josephine Blandin, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of May next, or whensoever the said court shall there be, to answer a bill exhibited against you and others by George L. Hammekin and Adelaide Matilda, his wife, late Adelaide Matilda Mexia, and to do further and receive what the said court shall have considered in that behalf.

And this you are not to omit under the penalty of two hundred and fifty dollars.

Witness the honorable John C. Watrous, judge of said court, and

seal of court, at the city of Galveston, this 22d day of April, A. D. eighteen hundred and forty-eight, and seventy-second year of the independence of the United States.

THOS. BATES, *Clerk.*

The defendants are required to enter their appearance in the above suit in the clerk's office on or before the first Monday of June next, otherwise the bill will be taken as confessed.

THOS. BATES, *Clerk.*

Upon which said subpœna is the following endorsement of return, to wit:

Received the 22d of April, 1848, and executed on the 23d day of April, 1848, by serving the defendant in person with a true copy of this subpœna as furnished by the clerk of this court.

JAS. H. COKE, *Marshal,*
By H. B. MARTIN, *Dept. marshal.*

And afterwards, at the June rules, to wit, on the 5th day of June, in the year of our Lord one thousand eight hundred and forty-eight, the following entry was made upon the order book, to wit:

HAMMEKIN and Wife
vs.
N. HOYT et al.

Messrs. Merriman and Allen enter their appearance this day for all the defendants.

THOS. BATES, *Clerk.*

And afterwards, on the 3d day of July, in the year of our Lord one thousand eight hundred and forty-eight, the defendants, by their counsel, filed their plea in the words and of the tenor following, to wit:

In chancery.

The joint and several plea of Nathaniel Hoyt, William M. Hudson and Josephine, his wife, and James Blandin, defendants, to the bill of complaint of George L. Hammekin and Adelaide Matilda, his wife, complainants.

These defendants, by protestation not confessing or acknowledging all or any of the matters and things in the said complainants' bill mentioned to be true in such manner and form as the same are therein and thereby set forth and alleged; as to so much of said bill as alleges that the government of the State of Coahuila and Texas, on the 12th day of February, 1830, granted, conceded, and conveyed eleven leagues of land, described in said bill, to the said Adelaide Matilda, now the wife of the said George L. Hammekin, in manner and form as is therein set forth; and as to so much of said bill as sets up a subsisting title in and to the said eleven leagues of land, in the said Adelaide Matilda;

and as to so much of said bill as seeks special or general relief, these defendants do plead in bar, and for plea say, that in pursuance of a petition presented to the governor of the State of Coahuila and Texas, bearing date the 27th day of January, A. D. 1830, by and in behalf of one Pedro Varela, a grant by way of sale in conformity with the 24th article of the Colonization law of the said State of the 24th day of March, A. D. 1825, was made by the said governor to the said Varela of eleven leagues of land in the vacant lands of the said State. And that thereafter, to wit, on the 29th day of March, 1832, the said Varela, by a notarial act of that date, before Jose Lopez Guaro, a notary public in and for the city of Mexico, at said city, sold and transferred to one Charlotte Walker, then the wife of Jose Antonio Mexia, for the use of the said Adelaide Matilda, the younger daughter of the said Charlotte and her said husband, then being unmarried, and a minor, subject to the power of her father, the eleven leagues of land so granted as aforesaid, in order that she, the said Charlotte, might enjoy or alienate the same, according to her free will and absolute proprietress of the same; and that, in and by the said notarial act, the said Charlotte, among other things, became bound to pay to the government of the State of Coahuila and Texas the value of the said eleven leagues of land, in accordance with the colonization law aforesaid; and that the said sale and transfer so made, and by the said notarial act attested, was founded upon a good and valuable consideration in money, moving from the said Jose Antonio Mexia to the said Pedro Varela. And that the said notarial act was executed by and to the said Charlotte, then acting for her said husband and in his absence, by virtue of the power granted to her, according to the laws of Mexico, by Alexander Alvarez Guitian, second constitutional alcalde of the said city of Mexico, on the 10th day of March, A. D. 1832; and that thereby the said Jose Antonio Mexia became entitled to all the benefits of the said act, and bound by the same. And that thereafter, to wit, on the 23d day of November, A. D. 1833, a survey having first been made in accordance with law, a title to the possession of the said eleven leagues of land so surveyed, being the same tract of land as described in the said bill, was made by the commissioner, Vincente Aldrete, to the said Adelaide Matilda. And that thereafter, to wit, on the 10th day of February, A. D. 1836, the said Adelaide Matilda, then remaining unmarried, and subject as aforesaid, the said Jose Antonio Mexia, by a notarial act of the same date, before Amedée Ducatel, a notary public in and for the city of New Orleans, granted, sold, and transferred, with the consent and authorization of his said wife, to John A. Merle, mentioned in the said bill, then acting as trustee, and on account of Anthony, or Antonio, Blandin, also mentioned in the said bill, for the consideration of seven thousand three hundred and six dollars and twenty-five cents, then paid to the said Mexia by the said Merle, out of the funds of the said Blandin then in his, said Merle's, possession, the eleven leagues of land so granted, surveyed, and described as aforesaid.

Withdrawn by leave of the court after amendment of bill M. A. & H.

And these defendants for plea to the aforesaid parts of the said bill further say, that they wholly deny that the government of the State of Coahuila and Texas did, on the 12th day of February, A. D. 1830, grant, concede, or convey the eleven leagues of land, described in the said bill, unto the said Adelaide Matilda, as is alleged in said bill.

And as to so much of said bill as pretends that the purchase by the said Merle of the aforesaid eleven leagues of land was made at the instigation of the said Mexia, for the purpose of having the legal estate thereof vested in a citizen or resident of the said State, and not according to any law then in force in the said State, these defendants, for further plea, say, that they wholly deny the same to be true, as pretended in the said bill.

All which matters and things these defendants do plead in bar to the complainants' bill aforesaid; and humbly pray the judgment of this honorable court, whether *the* shall be compelled to make any further or other answer thereto; and these defendants pray to be hence dismissed, with their reasonable costs in this behalf sustained.

We, counsel for the said defendants, do certify that, in our opinion, the above plea is well founded in point of law.

MERRIMAN, ALLEN & HALE.

We, Nathaniel Hoyt, William M. Hudson, and Josephine Hudson, defendants to the bill of complaint above mentioned, do severally make oath and say, that the above plea is not interposed for delay, and is true in point of fact.

NATHANIEL HOYT,
WM. M. HUDSON,
JOSEPHINE HUDSON.

Subscribed and sworn to at Galveston, this third day of July, A. D. 1848.

J. BATES, *Com'r.*

And afterwards, on the tenth day of July, A. D. 1848, on motion of complainants, by their counsel, the following order was passed by the court, to wit:

G. L. HAMMEKIN and wife
vs.
NATH'L HOYT et al.

Upon motion of complainants, by counsel, it is ordered that they have leave to amend their amended bill, by striking out on the first page thereof the 12th of February, 1830, and inserting in lieu thereof 23d of November, 1833, which was done accordingly.

And thereupon the complainants filed the following amendment, to wit:

The defendants, by leave of the court, amend their within plea, after the amendment of the bill, by substituting on the sixth and seventh lines of the first page, instead of the words and figures 12th day of February, 1830, the words and figures following, to wit, 23d November, 1833.

MERRIMAN, ALLEN & HALE.

And afterwards, on the same day, to wit, on the tenth day of July, A. D. 1848, the following agreement of counsel was filed:

It is agreed that the foregoing plea be taken as the plea of James Blandin, one of the defendants therein named, with the same effect as if he had regularly made oath to its truth in point of fact, and that it was not interposed for delay.

ROB'T HUGHES,
For comp'ts.

July 3d, 1848.

And afterwards, on the same day, to wit, the tenth day of July, A. D. 1848, the complainants, by their counsel, filed their replication to the joint and several plea of defendants in the words and of the tenor following, to wit:

The replication of George L. Hammekin and wife to the joint and several plea filed by Nathaniel Hoyt, William M. Hudson and Josephine, his wife, and James Blandin, defendants to the bill of said Hammekin and wife, complainants.

The said complainants, saving, &c., for replication to said plea say, they will aver, maintain, and prove their said bill to be true, certain, and sufficient to be answered unto, and that the said plea of the said answer is untrue, uncertain, and insufficient to be replied unto; without that, &c.; and humbly pray as in and by their said bill they have already prayed, &c.

HUGHES AND ROSE,
For complainants.

We agree that the above replication be now filed as of the last rule day. The time for taking proof not to expire until three months from next rule day.

July 10th, 1848.

The above agreement is not to preclude the defendants from applying for an enlargement of time to take testimony.

MERRIMAN, ALLEN & HALE,
For defendants.

And afterwards, at the January rules, to wit, on the first day of January, A. D. 1849, the following order was entered, to wit:

G. L. Hammekin and Wife
vs.
Nathaniel Hoyt et al.

1845.

The time for taking testimony having elapsed, and publication having been made, it is ordered that this cause stand for hearing.

MERRIMAN, ALLEN & HALE,
Solicitors for defendants.

January 1st, 1849.

JAMES LOVE, *Clerk.*

And afterwards, on the same day, to wit, the first day of January, A. D. 1849, the complainants, by their counsel, filed the following motion:

G. L. Hammekin and Wife
vs.
Nathaniel Hoyt et al.

In chancery.

Motion to set aside the order made at rules, to set this cause for hearing, for reasons which will be given at the hearing of this motion, and for leave to file a supplemental bill.

ROBERT HUGHES,
For complainants.

January 1, 1849.

And afterwards, on the fourth day of January, A. D. 1849, the motion filed by complainants on the first day of January, A. D. 1849, to set aside the order made at rules, came on to be heard; whereupon the court passed the following order, to wit:

G. L. Hammekin and Wife
vs.
Nathaniel Hoyt et al.

In chancery.

Upon motion of complainants, by counsel, it is ordered, that the order for setting this cause for hearing, made at the rules, be set aside, and leave given to withdraw the replication herein, and file and amended and supplemental bill; which was done accordingly.

And thereupon, on the same day the complainants, by their counsel, filed their amended and supplemental bill, in the words and of the tenor following, to wit:

To the honorable John C. Watrous, judge of the district court of the United States, for the district of Texas, sitting in chancery.

George L. Hammekin and Adelaide Matilda, his wife, citizens of the State of Louisiana, bring this their bill of complaint against Nathaniel Hoyt and James Blandin, administrators, &c., and the said James Blandin and William M. Hudson and Josephine, his wife, late Josephine Blandin, heirs of Antonio Blandin, deceased, and Elisha M. Pease, citizens of the State of Texas, in amendment of, and supple-

mental to their original bill, heretofore filed against Nathaniel Hoyt, James Blandin, and William M. Hudson and Josephine, his wife.

And thereupon your orator and oratrix complain, that they filed their said original bill in this honorable court on the 22d day of October, A. D. 1848, in which said bill among others matters, it was alleged and charged as follows, to wit, that "on the 23d day of November, 1833, the Government of the State of Coahuila and Texas, acting by and through its regularly constituted agents, granted, conceded, and conveyed, according to the laws and usages of said State, unto your oratrix eleven leagues of land, of the value of fifty thousand dollars, situated on the river Navasota, formerly in the Department of Nacogdoches, in said State, now in the State and district of Texas aforesaid, above and adjoining the survey of Andres Varela, as will fully and at large appear by reference to the field notes contained within the said grant, which will be filed, if necessary, before the hearing of, or when required as evidence in this cause."

"Your orator and oratrix further represent unto your honor, that afterwards, to wit, on or about the 10th day of February, 1836, a certain Antonio Mexia, the father of your oratrix, upon some supposed necessity of having the legal estate vested in a citizen or resident in the then State where said grant was situated, and without any good or valuable consideration whatever, sold and conveyed, or attempted to sell and convey, said land to a certain John A. Merle, by an authentic act before a notary public of the State of Louisiana, and not according to any law which is now, or ever was, in force in the State or Republic of Texas, or in the State of Coahuila and Texas.

And the said John A. Merle, by a like authentic act before a notary public in the State of Louisiana, declared that the said grant of eleven leagues of land was purchased by him with the funds of said Antonio Blandin, and on his, said Blandin's, account, when in truth and in fact said purchase was made for the purpose aforesaid, and without consideration as aforesaid.

"Your orator and oratrix would further represent unto your honor, that said Antonio Blandin has departed this life intestate, and said Nathaniel Hoyt and James Blandin have been duly appointed administrators, &c., upon the succession, and the said Josephine Hudson and said James Blandin are heirs at law of said Antonio Blandin, deceased; and your orator and oratrix are advised, that notwithstanding the pretended sale and declaration aforesaid, the right of the eleven leagues of land aforesaid is in your oratrix, and that she is the indefeasible owner of the same, and yet the said administrator and heirs claim to hold the said land in their own right by descent from their ancestor, and by this means a cloud is impending over the title of your orator and oratrix."

And the said bill prayed that the sale aforesaid be declared illegal and void, or that the said administrator and heirs be held trustees of said land for the benefit of your orator and oratrix, and for general relief. To the said bill, the defendants appeared and plead in bar, to

which your orator and oratrix replied, and the cause is at issue, and has been set for hearing on the bill, plea aforesaid, replication, and proof, by said defendants; all of which will fully and at large appear by said bill and the proceedings thereon aforesaid, of record and on file in this honorable court.

And now your orator and oratrix state, that since the filing the replication aforesaid, they have been informed and verily believe, and upon such information charge that such is the fact, that the said Antonio Blandin, deceased, the intestate and ancestor of the defendants, a short time before his death, the more completely to carry out and effectuate the trust created in him by the sale made, or intended to be made, by the transaction mentioned in the original bill, and to prevent the said land from being in his hands and subject to his debts, and that there might be some person invested with the title to said land, and competent to manage and control the same for the benefit of your oratrix, residing in the then Republic of Texas, and because the said Antonio Blandin from thenceforth expected to be absent from said Republic, without any consideration good or valuable in law, and without the consent of your orator and oratrix, or either of them, conveyed all the right, title, claim, and interest which was vested in him to said land, by the pretended sale in the said original bill mentioned, to the said Elisha M. Pease, by deed or writing executed in conformity to law; and your orator and oratrix are advised, that in consequence of said conveyance said land, upon the death of said Antonio Blandin, did not descend to, or vest in. the administrators or heirs aforesaid, and that all the title, legal or equitable, which the said Antonio Blandin had or held in the same, was vested in said Pease, and he held or holds the same, if he has any title whatever, for the benefit of your orator and oratrix; and your orator and oratrix are informed, believe, and so charge the fact to be, that said Pease does not pretend to set up any right or title to said land for his own benefit, but he acknowledges that he holds the title he has for the benefit of those for whom the trust was created, as mentioned in the original bill.

And your orator and oratrix aver, that John A. Merle, mentioned in this and the original bill, is a citizen of the State of Louisiana, and is beyond the jurisdiction of this court, and the reach of the process thereof; and that Antonio Mexia, also mentioned in the original bill, has long since departed this life; all which is contrary, &c., and for, and as much as, &c. To the end, therefore, that this may be received as an amendment and supplement to the original bill aforesaid; that said Nathaniel Hoyt, James Blandin, and William M. Hudson and Josephine, his wife, may be made defendants to the same; and also that the said Elisha M. Pease may be made a defendant to the same as well as to the original bill; and that the said defendants may, if they can, show why your orator and oratrix should not have the relief hereby prayed, as well as that prayed for by said original bill; and that the said defendants may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective

knowledge, remembrance, information and belief, full, true, direct, and perfect answer make to such of the several interrogatories herein numbered and set forth, as by the note here underwritten they are respectively required to answer: that is to say—

1. Whether the several allegations of fact, charges, and statements set forth in this bill, are or are not true; or if not in part, or whole, in what respect do they vary or depart from the truth of the fact?

2. When the said Antonio Blandin executed the conveyance referred to in this bill, or at any time before or since, did he refer to, or speak of, the manner in which, or the purpose for which, he held said land; and if yea, what did he say on the subject?

And that, by decree to be rendered herein by your honor, your orator and oratrix may have the relief asked for by their original bill, and such other and further relief as they may be entitled to under said original or this amended and supplemental bill, may it please your honor to grant unto your orator and oratrix the United States writ of subpœna, directed, &c., commanding, &c.; and your orator and oratrix, as in duty bound, will ever pray, &c.

HUGHES & ROSE,
For complainants.

NOTE.—The defendants, Nathaniel Hoyt, James Blandin, and William M. Hudson and wife, are required to answer respectively interrogatory numbered 1; and the other defendant all the interrogatories contained in the bill.

HUGHES & ROSE,
For complainants.

And afterwards, on the same day, to wit, the fourth day of January, A. D. 1849, Robert Rose, one of the counsel for complainants, filed the following affidavit, to wit:

UNITED STATES OF AMERICA,
District of Texas, to wit:

District court, December term, 1848. In chancery.

Between GEORGE L. HAMMEKIN and wife, complainants,
and
NATHANIEL HOYT et al., defendants.
} O. bill.

Robert Rose, agent and counsel for the complainants in this cause, states that he is the person at whose instance the bill in this cause was filed. This affiant is the sole agent of the complainants for the management of this case and the claim; that, at the time of filing said bill, the facts stated in the amended and supplemental bill, as to the conveyance of the land therein mentioned by Antonio Blandin, deceased, were not known to him, though he had made diligent and anxious inquiries as to the situation of the title to said land, so that he might protect the interest of his principal; that the facts were not ascertained un-

til since the filing of the replication in this cause; and that, as soon as he was informed of the probable existence of said facts, and within the last week or ten days he met with Mr. Pease, one of the defendants to the amended and supplemental bill, and learnt them to be as stated in said amended and supplemental bill.

ROBERT ROSE.

Sworn and subscribed in open court, January 4th, 1849.
JAS. LOVE, *Clerk.*

And afterwards, on the fifth day of January, A. D. 1849, Elisha M. Pease, one of the defendants in this suit, filed his answer herein, in the words and of the tenor following, to wit:

The separate answer of Elisha M. Pease to the original bill of complaint, and the amended and supplemental bill filed by George L. Hammekin and wife against this respondent, Nathaniel Hoyt and others.

This respondent, now at all times hereafter, saving, &c., for answer to said bills, or unto so much and such parts thereof as he is advised is material or necessary for him to answer unto, he answers and says, that as near as he can recollect some time in the year 1838, Antonio Blandin, deceased, called upon him and stated that he held the title to three eleven league grants for land in the then republic of Texas; one of which this respondent believes to be the grant in contest in this suit. He stated that said lands had been conveyed to him by the owners thereof, in order that he, as a resident citizen of Texas, might hold and manage the same for the benefit of the said owners; that he had paid the Government dues and some other expenses on the said grants; that he was to have a portion of the land for his services, and was to be reimbursed for all charges and expenses that he might incur on account of these lands. He also stated that he was becoming embarrassed in his pecuniary matters, and that he, as well as the other parties interested, were desirous that he should convey the title to some citizen of Texas, in whose hands they would be safe; and he, the said Blandin, requested respondent to take a conveyance for the three grants, and give him, said Blandin, an obligation to reconvey to him or his order, when required. This respondent consented, and said Blandin conveyed said lands to respondent by deed duly executed in fee, which respondent believes was recorded in the county of Brazoria. The original was given to said Blandin to be recorded in the county where the lands were situated, and this respondent has never seen said deed since. At the same time that said deed was executed to this respondent, he executed and delivered to said Blandin an obligation, by which he, this respondent, agreed to reconvey said lands to said Blandin or his order when required, he being bound to pay all expenses of said reconveyance, and all expenses and charges that respondent might incur on account of said land.

The said Blandin departed this life, not having previously requested said reconveyance, and this respondent has done nothing under said conveyance, and now holds the title, if any he has, under said conveyance for those to whom the same of right belongs, and submits himself to the court as to the disposition of the same by decree, and agrees to convey to the person indicated by any such decree, so that he incurs no costs or charges.

This respondent knows nothing further of the allegations or charges of the complainants' original or amended supplemental bill; without that, &c., and prays to be hence dismissed with his reasonable costs and charges, &c. E. M. PEASE.

THE UNITED STATES OF AMERICA,
District of Texas. to wit

Elisha M. Pease this day personally appeared before me, Archibald M. Hughes, commissioner of affidavits, and made oath in due form that the matters of fact set forth in the foregoing answer of his own knowledge are true, and those of the knowledge or information of others he believes to be true. E. M. PEASE.

Sworn and subscribed the 5th day of January, 1849.
A. M. HUGHES, *Comm'r.*

Upon which answer is the following memorandum made by the clerk, to wit:

District court of the United States, district of Texas.

HAMMEKIN and Wife
vs.
N. HOYT et als. } In chancery.

The complainants having offered to read in evidence against the defendants, Hoyt, Hudson and wife, and James Blandin, the answer of Elisha Pease, also one of the defendants, the counsel for the defendants first named objected thereto, and to the competency of the said answer in evidence, for the following reasons:

First. Because the answer of one defendant cannot be read in evidence against his co-defendants.

Second. Because the statements in the answer are irrelevant, incompetent, and do not correspond to the allegations in the bill.

And the said counsel also objected to the reading of all that part of the said answer relating to the alleged conversation between the respondent and Antonio Blandin, because the same was incompetent testimony, inadmissible under the rules of evidence, and could not be used to *raised* an implied trust to charge the said defendants.

But the court overruled these several objections, and allowed the said answer to be read as evidence against all the said defendants, and the same was read accordingly.

June 30th, 1851.

JAMES LOVE, *Clerk.*

And afterwards, on the twenty-sixth day of January, A. D. 1849, Nathaniel Hoyt, James Blandin, administrator of the estate of Antonio Blandin, deceased, and the said James Blandin, William M. Hudson and Josephine Hudson, his wife, defendants in this cause, by their counsel, filed their demurrer to the supplemental and amended bill of complaint herein, in the words and of the tenor following, to wit:

DISTRICT COURT OF THE UNITED STATES,
District of Texas, in chancery.

The joint and several demurrer of Nathaniel Hoyt and James Blandin, administrators of the estate of Antonio Blandin, deceased, and the said James Blandin, William Hudson and Josephine Hudson, his wife, late Josephine Blandin, defendants, to the supplemental and amended bill of complaint of George L. Hammekin and Adelaide Matilda Mexia, his wife, complainants.

These defendants, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainants' said supplemental and amended bill of complaint to be true, in such manner and form as the same are therein and thereby set forth and alleged, as to so much of said bill as purports to be an amendment of, and supplement to, the original bill of complaint of the said complainants, do demur in law, and for causes of demurrer show the following:

First. That the said supplemental and amended bill sets forth matters that are only proper for an amendment to the said original bill.

Second. That the said supplemental and amended bill contains no matter, or allegation of matter, which shows any alteration or change in the interests or rights of these defendants, or of the said complainants, as respects these defendants.

Third. That the said supplemental and amended bill contains no matter to require them to answer thereto.

Fourth. That these defendants are improperly made parties to the said supplemental and amended bill.

Fifth. That the said amended and supplemental bill does not pray for any additional relief.

Sixth. That the said supplemental and amended bill does not contain any matter to entitle the said complainants to any such discovery from these defendants, as is sought and prayed in and by the said bill.

Wherefore these defendants do demur thereto, and pray the judgment of the court whether they ought to be compelled to put in any further or other answer to the said complainants' said supplemental and amended bill, and humbly pray to be hence dismissed, with their reasonable costs in this behalf sustained.

The undersigned, counsel for the defendants named in the title to this demurrer, certify that, in their opinion, the said demurrer is well founded in point of law.

MERRIMAN, ALLEN & HALE,
Of counsel for defendants.

UNITED STATES OF AMERICA,
District of Texas.

We, Nathaniel Hoyt, James Blandin, William M. Hudson, and Josephine Hudson, severally make oath and say, that the foregoing demurrer is not interposed for delay.

NATHANIEL HOYT.

Subscribed and sworn to this 26th day of January, 1849, before me—

JAMES LOVE, *Clerk.*

And afterwards, on the 27th day of February, A. D. 1849, the following endorsement [was] made, by order of the court, upon the foregoing demurrer, to wit:

Withdrawn by leave of the court, and again filed by leave of court, February 27th, 1849.

JAMES LOVE, *Clerk.*

And afterwards, on the same day, to wit, the twenty-seventh day of February, A. D. 1849, the defendants, by their counsel, filed the following additional causes of demurrer, to wit:

District court of the United States, district of Texas, in chancery.

Between GEO. L. HAMMEKIN and Wife, complainants,
and
NATHANIEL HOYT and others, defendants.

The defendants in this cause to the original bill assign the following additional causes of demurrer to the supplemental and amended bill of the said plaintiffs, in support of their demurrer now on file in this cause thereto.

Seventh. That the said amended and supplemental bill purports to be both an amendment and supplement to the original bill, whereas it can only be either an amendment or a supplement thereto.

Eighth. That the said amended and supplemental bill does not show such a case as entitles the said plaintiffs to file it.

Ninth. That it does not appear from the said amended and supplemental bill that the amendments therein contained could not have been made before the cause was set down for hearing.

F. MERRIMAN,
EBN. ALLEN,
WM. G. HALE,
Of counsel for defendants.

Galveston, Jan. 31, 1848.

And afterwards, at the March rules, to wit, on the fifth day of March, A. D. 1849, the following entry was made, to wit:

1649

G. L. HAMMEKIN and Wife
vs.
NATHANIEL HOYT et al.

The demurrers of the defendants in this cause set down for argument.

ROB'T HUGHES,
For complainants.

March 5th, 1849.

And afterwards, at the May term of this court, to wit, on the eighth day of September, 1849, this cause was continued.

And afterwards, at the December term, 1849, to wit, on the eleventh day of March, A. D. 1850, this cause was continued.

And afterwards, on the second day of April, A. D 1850, the demurrers of defendants to complainants' bill, and amended and supplemental bill of complaint, came on to be heard, and thereupon the court here passed the following order, to wit:

G. L. HAMMEKIN and Wife
vs.
NATHANIEL HOYT.

On this day came on to be heard the demurrer of defendant to the amended and supplemental bill, heretofore filed by complainants; after argument of counsel heard, because it seems to the court that the law arising upon the demurrer is for the complainants, it is ordered that the same be overruled. It is further ordered, that the defendant file his answer to the complainants, on or before the rule day in May next.

And afterwards, on the third day of June, A. D. 1850, the defendants, by their counsel, filed their several answers to the amended and supplemental bill of complainants, in the words and of the tenor following, to wit:

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

The answer of James Blandin, one of the defendants to the supplemental and amended bill of complaint of George L. Hammekin and Adelaide Matilda Mexia, his wife, complainants.

This defendant, now and at all times hereafter, saving and reserving to himself all benefit and advantage of exception, which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said supplemental and amended bill of complaint contained, for answer thereto, or unto so much thereof as this defendant is advised is material and necessary to answer unto, and not before pleaded to this defendant, answering, says:

1. In answer to the first interrogatory, that about the month of October, A. D. 1847, this defendant was in the county of Brazoria, and

there engaged in examining the records of the said county, for the purpose of obtaining such information with reference to the condition of the estate of his deceased father, Antonio Blandin, in said bill mentioned, as might be of service to himself, and Nathaniel Hoyt, another of the defendants in said bill, in managing and settling such estate; that, while thus engaged, this defendant observed upon the records of the said county, in the office of the county clerk, a copy of a paper or instrument in writing, purporting to be an acknowledgment of trust from E. M. Pease to Antonio Blandin; a copy whereof is hereto appended as part of this answer, and marked exhibit A. And this defendant in fact believes that the said original instrument of writing, so recorded, was in fact executed by Elisha M. Pease, one of the defendants to the said bill; and this defendant also believes, from the recital contained in the said instrument, and from information derived from the said Pease, that the said Antonio Blandin, in his lifetime, and about the thirty-first day of July, A. D. 1838, did convey to the said Pease the eleven leagues of land described in the plea of this defendant, heretofore filed; and this defendant also believes, from the perusal of letters written to his said father, by mercantile firms in the city of New Orleans, with which he had dealings, which letters this defendant, after diligent search, is unable now to find; and from information derived from others, and from expressions and language used by his said father in his, this defendant's, hearing, that about the thirty-first day of July, A. D. 1838, his said father had made large purchases of goods from certain mercantile firms in New Orleans; and was liable, on account thereof, to be called on for immediate and large payments in cash, and that his business, from unavoidable causes, was in such a condition, that he was not able, at once and upon demand, to make such payments; that, therefore, fearing that his creditors in New Orleans might commence actions at law against him, and sell his property by forced sale, under execution, at an enormous sacrifice, so as to leave his family entirely destitute; and desirous to secure the lands above mentioned to his wife and his children, if possible, he conveyed the same to the said E. M. Pease, in trust, in order that the said Pease might so hold them as to enable him, at some future day, to obtain a reconveyance from the said Pease, to the said wife and children of him, the said Antonio Blandin.

But whether the several allegations of fact, charges, and statements in said amended and supplemental bill set forth are or are not true, and if not, in what respect they vary or depart from the truth of the fact, this defendant is unable of his own knowledge to say; and shall, therefore, insist upon strict proof of all such allegations, charges, and statements not now in proof to this court.

2. In answer to the second interrogatory: That this defendant, at the time of the transactions in said bill mentioned, was about sixteen years of age, and was not then entrusted by his father, the said Antonio Blandin, with any part of his business, and that his said father was little communicative as to his business transactions, and seldom

spoke of the same in the hearing of this defendant; that the only occasions on which this defendant distinctly remembers hearing his said father speak of the manner in which, or the purpose for which, he held the lands in question, were the following: Some time in year 1838 his said father told this defendant that he intended to send him, this defendant, with some working hands to these lands, for the purpose of cultivating them, and that he then said that the lands were his; that he had purchased them from Jose Antonio Mexia, and paid him twenty-five cents per acre for them. At other times he repeated this last statement in the hearing of this defendant, and always seemed to regard the lands as his own property; and so this defendant has also heard and understood from others; and so this defendant believes, and shall insist upon strict proof of any expressions to the contrary alleged to have been, at any time, used by his said father.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged; without this, that there is any other matter, cause, or thing in the said complainants' supplemental and amended bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed and avoided, traversed or denied, is true to the knowledge or belief of this defendant. All which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and insisting upon their plea heretofore filed, he humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

JAMES BLANDIN.

UNITED STATES OF AMERICA,
District of Texas, ss.

On this, the 1st day of March, A. D. 1849, before me personally appeared the above named James Blandin, and made oath that he has heard read the above answer by him subscribed, and knows the contents thereof to be true of his own knowledge, except as to matters which are therein stated to be on his information and belief, and as to those matters he believes it to be true.

A. M. HUGHES, *Comm'r.*

Exhibit A, referred to in the foregoing answer of James Blandin.

REPUBLIC OF TEXAS,
County of Brazoria.

Know all men by these presents, that whereas by an act passed before Wm. P. Scott, chief justice and ex officio notary public for the county aforesaid, this thirty-first day July, one thousand eight hundred and thirty-eight, by Anthony Blandin, the said Blandin has sold and conveyed to me for the sum of seventy thousand dollars, as set forth in

said act, three several tracts of lands, situated on the Trinity river and Navasota creek, containing each eleven leagues, more particularly described in said act of sale; and also one league and labor of unlocated land, being the head right of Solomon C. Page. Now, therefore, be it known to all whom it may concern, that I hold said land in trust for said Blandin, and in no other manner; and that I hereby obligate myself, my heirs, and assigns, to convey said lands without any consideration whatever to either, to said Blandon, or to any person whom he shall designate, whenever required so to do by him, or his legal representatives, provided said Blandin shall at all times pay all taxes or other dues whatever, that may accrue on said lands, and save me from all charges whatever on account of the same.

And I hereby expressly declare, that I have no other right or interest in said lands than set forth above.

In testimony whereof I hereunto sign my name in the presence of witnesses, at Brazoria, this thirty-first day of July, one thousand eight hundred and thirty-eight.

E. M. PEASE.

Witness—CHARLES LEONARD,
A. C. HYDE.

REPUBLIC OF TEXAS,
County of Brazoria.

Before me, Edward Purcell, deputy clerk and recorder in and for said county, personally came Charles Leonard, one of the subscribing witnesses to the annexed instrument, who, being duly sworn, declared that he was present and did see E. M Pease, whose name appears at the end thereof. Signed the same for the purposes therein expressed.

Given under my hand, at office, this 17th day of August, A. D. 1838.

EDWARD PURCELL, *D. C., B. C.*

Filed for record 17th August, 1838.

THE STATE OF TEXAS,
County of Brazoria.

I, M. B. Williamson, clerk and recorder in and for the county aforesaid, do hereby certify, the above and foregoing to be a true transcript from the records of my office in record book C, page 257 and 258.

[L. S.] Given under my hand and seal of the county court, this 5th day of November, A. D. 1847.

M. B. WILLIAMSON,
Clerk C. C., B. C.

Answer of Hudson and wife.

DISTRICT COURT OF THE UNITED STATES.
District of Texas.

In chancery.

The joint answer of William Hudson and Josephine, his wife, to the supplemental and amended bill of George L. Hammekin and Adelaide Matilda Mexia, his wife, complainants.

These defendants, now and at all times hereafter, saving and reserving to themselves, and each of them, all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainants' supplemental and amended bill contained, for answer thereto, or unto so much and such parts thereof as these defendants are advised is or are material or necessary for these defendants to make answer unto, and not before pleaded to, these defendants, jointly answering, say:

1. In answer to the first interrogatory, that these defendants do not of their own knowledge know, whether the several allegations of fact, charges, and statements set forth in the said amended and supplemental bill of complaint are or are not true, or if not in part or in whole, in what respect they may vary or depart from the truth of the fact; but these defendants have informed, and upon such information believe and charge, and here answer, that the said Antonio Blandin, some time in the year 1838, became embarrassed in business, and fearing that his creditors would commence actions at law against him, and compel the sale of his property, under execution, at a great sacrifice, so as to leave his family entirely destitute, and being desirous to secure the particular lands in question to his wife and children, for their benefit and support, conveyed the said lands in trust to E. M. Pease, of the county of Brazoria, for such purpose. And these defendants believe that John A. Merle is out of the jurisdiction of this court, and that Antonia Mexia, in said bill mentioned, has long since departed this life. But further these defendants are unable, upon their knowledge or information, to answer the said interrogatory.

And these defendants deny all and all manner of unlawful combination and confederacy, wherewith they are by the said bill charged; without this, that there is any matter, cause, or thing, in said complainants' other said amended and supplemental bill of complaint contained, material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed and avoided, traversed or denied, is true to the knowledge or belief of these defendants. All which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct, and insisting upon their plea heretofore filed, and humbly pray to be hence dismissed with their reasonable costs, and in this behalf most wrongfully sustained.

WM. M. HUDSON,
JOSEPHINE HUDSON.

UNITED STATES OF AMERICA,
District of Texas, ss.

On this the 1st day of March, 1849, personally appeared the above named William Hudson and Josephine Hudson before me, and made oath that they have read the above answer by them subscribed, and know the contents thereof to be true of their own knowledge, except as to matters which are therein stated to be on their information and belief; and as to those matters they believe *it* to be true.

A. M. HUGHES, *Com'r.*

Upon which answer is the following memorandum noted by the clerk, to wit:

The complainants offered to read in evidence, on the hearing against all the defendants, the part of the within answer included in brackets, the defendant Blandin objected, by his counsel, to its being read as evidence against him, but the court overruled the objection, and the said part of the said answer was read accordingly.

JAMES LOVE, *Clerk.*

June 25th, 1851.

Answer of Nath'l Hoyt.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

The separate answer of Nathaniel Hoyt, one of the defendants, to the supplemental and amended bill of George L. Hammekin and Adelaide Matilda Mexia, his wife, complainants.

This defendant, now and at all times hereafter, saving and reserving to himself all benefit and advantage of exception which may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's supplemental and amended bill contained, for answer thereto, or unto so much and such parts thereof as this defendant is advised is material for him to answer unto, and not heretofore pleaded to, this defendant answering, says:

In answer to the first interrogatory:

That this defendant does not, of his own knowledge, know whether the several allegations of fact, charges, and statements set forth in said supplemental and amended bill of complaint, are or are not true, or if not true in part or whole, in what respect they depart from the truth of the fact; but this defendant has been informed, and upon such information believes, and here charges and answers, that the said Antonio Blandin, some time in the year 1838, became embarrassed in business, and fearing that his creditors would commence actions at law against him, and compel the sale of his property under execution at great sacrifice, so as to leave his family entirely destitute; and being desirous to

secure the particular lands in question to his wife and children, for their benefit and support, conveyed the same in trust to E. M. Pease, of Brazoria, for such purpose. And this defendant believes that John A. Merle is out of the jurisdiction of this court, and that said Antonio Mexia in said bill mentioned, has departed this life; but further this defendant is unable, upon his knowledge, remembrance, information, or belief, to answer the said interrogatories, as to the said parts of said bill.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged; and, insisting upon his plea heretofore filed, he humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

NATHANIEL HOYT.

UNITED STATES OF AMERICA,
District of Texas.

On this the sixth day of June, A. D. 1850, before the undersigned, personally appeared Nathaniel Hoyt, and made oath that he has read the foregoing answer by him signed, and knows the contents thereof to be true of his own knowledge, except as to matters which are therein stated as upon information and belief, and as to those he believes it to be true.

JAMES LOVE,
Master in chancery.

And afterwards, on the twenty fifth day of June, A. D. 1850, the following order was passed by the court, to wit:

GEORGE L. HAMMEKIN and Wife
vs.
NATHANIEL HOYT et al.

On motion of complainants' solicitor, it is ordered, that the complainants have leave to take the examination of E. M. Pease, one of the defendants in this cause, to be used as evidence upon the trial, subject to all just exceptions on the part of defendants.

And afterwards, on the twelfth day of December, A. D. 1850, the following agreement of counsel was filed, to wit:

District court of the United States, district of Texas, in chancery.

G. L. HAMMEKIN and Wife
vs.
NATHANIEL HOYT et al.

It is hereby agreed, by the parties to this cause, that the plaintiffs' replications to the plea and answers of the defendants shall be considered as if filed on the regular rule day, when under the practice of this court they ought to have been filed, and that the said cause be now

set for hearing; and that, at the hearing, copies of papers purporting to be made by a notary public, and to be certified by him, shall be admitted in evidence without further proof of their authenticity and correctness, subject to such legal objections as might be used against the original; the deposition of E. M. Pease, when it comes in, is to be received as if filed before this agreement, subject to all other legal objections.

ROBT. HUGHES,
For complainants.
ALLEN & HALE,
For defendants.

December 12th, 1850.

And afterwards, on the seventeenth day of February, A. D. 1851, as of July rules, A. D. 1850, the complainants, by their counsel, filed their replication to the plea of defendants in the words and of the tenor following, to wit:

The replication of George L. Hammekin and wife, to the joint and several plea filed by Nathaniel Hoyt, William Hudson, and Josephine, his wife, and James Blandin, defendants, to the bill of complaint filed by the said George L. Hammekin and wife, complainants.

The said complainants, saving, &c., for replication to said plea say, they will aver, maintain, and prove their said bill to be true, certain, and sufficient in law to be answered unto; and that the said plea of the said defendants is untrue, uncertain, and insufficient in law to be replied unto; without this, that, &c.; and humbly pray, as in and by his said bill and amended bill they have already prayed.

ROBERT HUGHES,
For complainants.

And afterwards, on the same day, to wit, the seventeenth day of February, A. D. 1851, as of July rules, A. D. 1850, the complainants, by their counsel, filed their replication to the answer of defendants in the words and of the tenor following, to wit:

The replication of George L. Hammekin and wife to the answers of Nathaniel Hoyt, William M. Hudson and Josephine, his wife, and James Blandin, the defendants to the amended and supplemental bill of said George L. Hammekin and wife, complainants.

The said complainants, saving, &c., for replication to said answer say, they will aver, maintain, and prove their said supplemental and amended bill to be true, certain, and sufficient in law to be answered unto; and that the said answers of the said defendants are untrue, uncertain, and insufficient to be replied unto; without that, &c., and humbly pray, as in and by their said supplemental and amended bill, and as by their original bill, they have already prayed.

ROBT. HUGHES,
For compl'ts.

And afterwards, at the May rules, to wit, on the first day of May, A. D. 1851, the following entry was made, to wit:

GEORGE L. HAMMEKIN and Wife
vs.
NATHANIEL HOYT et als. } In chancery.

This cause is now set for hearing on bill, answer, exhibits, replications, and evidence adduced.

ROBT. HUGHES,
For complainants.

And afterwards, on the fourth day of June, A. D. 1851, the following motion was entered of record, to wit:

HAMMEKIN and Wife et als.,
vs.
NATH'L HOYT et als. } In U. S. D. C. In chancery.

The complainants, by their solicitors, now move the court that the deposition of Soulé be suppressed, for the reasons following, viz:

First. Because the time for taking testimony in the said cause had expired before the said deposition was taken.

Second. Because the commissioner who took the said deposition was not named or appointed by the judge.

MERRIMAN, ALLEN & HALE,
Solicitors.

And afterwards, in open court, on the 25th day of June, 1851, by leave of court, the complainants amend their above motion by adding to the second cause above assigned the following words at the end thereof, "or by the court," and by adding the following causes:

Third. Because the deposition was taken and filed under the replication filed on the 10th of July, A. D. 1848, and was not retaken after that replication had been withdrawn.

Fourth. Because the last interrogatory on which the deposition was taken is not in form or substance that prescribed by the rule of the supreme court.

MERRIMAN, ALLEN & HALE,
For defts.

And afterwards, on the 25th day of June, A. D. 1851, the following order was made, to wit:

HAMMEKIN and Wife
vs.
HOYT et als.

On this day came on to be heard the motion to suppress the deposition of P. Soulé. After argument of counsel, because it seems to the

court that the law is for the defendants, it is ordered that the deposition be suppressed.

The following testimony was adduced by the complainants at the hearing:

Deposition of E. M. Pease.

UNITED STATES DISTRICT COURT,
District of Texas.

December term, 1850.

To JOHN S. JONES:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize you and require you to cause to come before you Elisha M. Pease, and him truly examine on oath touching and concerning certain matters and things in a cause now pending in said court in chancery, wherein George L. Hammekin and wife are complainants, and Nathaniel Hoyt, William M. Hudson and wife, James Blandin, and Elisha M. Pease, are defendants; and the said examination so taken and reduced to writing, you certify under your hand and seal, and return enclosed to this office without delay, to be read as evidence on the trial of this cause, and return also this writ.

Witness the hon. John C. Watrous, judge of said court, and seal of court affixed, in the city of Galveston, on this the 19th of
[L. S.] February, one thousand eight hundred and fifty-one, and the seventy-fifth year of the independence of the United States of America.

JAMES LOVE, *Clerk.*

THE UNITED STATES OF AMERICA,
District of Texas, to wit.

District court.

In chancery, between GEORGE L. HAMMEKIN and Adelaide Matilda, his wife, complainants,
and
NATHANIEL HOYT, William M. Hudson and Josephine, his wife, James Blandin and Elisha M. Pease, defendants.

Interrogatories to be propounded to Elisha M. Pease, one of the defendants, the answers to which are to be read as evidence in behalf of the complainants in the above stated case.

1st interrogatory. Are you acquainted with the parties, complainants and defendants to this suit, or either, or any, [and] which of them?

2d interrogatory. Had you any, and what acquaintance with Antonio or Anthony Blandin, deceased; and what relationship, if any, did said Antonio Blandin bear to the defendants, or either or any of them?

3d interrogatory. What knowledge, if any, did you have of the business of the said Antonio Blandin, whether his own separate business or that connected with the business of others, or which he had or was to transact for others? In answering this interrogatory, will you state all you know on this subject of your own knowledge, or derived from conversations, if any, with said Antonio Blandin, giving time, place, and circumstances?

4th interrogatory. If you answer to the previous interrogatory that you have had any conversation or conversations with said Antonio Blandin in his lifetime, as to his business transactions on his own account or on account of others, will you give that conversation fully, and therein stating particularly what that conversation related to, and what was, as near as you could ascertain, the object of that conversation?

5th interrogatory. If, in answer to the fourth interrogatory, you state any particular object which said Antonio had, or stated he had, in conversation with you before inquired about, will you state what reason, if any, he gave or stated for the attainment of said object, and whether the said object was attained, and how? And will you examine exhibit A annexed to the answer of James Blandin, filed in this cause, and state whether said paper is a true copy of a paper executed by you, and whether the original was or was not delivered to and accepted by the said Antonio Blandin?

6th interrogatory. What relation, if any, had the paper referred to in the last interrogatory to the tract or parcel of land in contest in this suit, being eleven leagues on the Navosota river?

7th interrogatory. In the conversation or conversations referred to, or in any conversation, if any there was, did the said Antonio Blandin set up any right or title, legal or equitable, to the eleven leagues of land before referred to; and if yea, what was said title, from whom derived, and under what circumstances, and for what purpose, or what object?

8th interrogatory. What particular reason, if any, was given by the said Antonio Blandin, *if any*, for executing the authentic act referred to in exhibit A, before alluded to?

9th interrogatory. Did said Antonio Blandin in any conversation or conversations, if any, had with him, state whether the tract of land of eleven leagues before referred to was, or had been, conveyed to him by any and what person, or for any and what particular purpose; did the said Antonio Blandin claim title to the same for his own benefit, or for the benefit of any and what persons?

10th interrogatory. If the said Antonio Blandin, in any such conversation, claimed title to the said eleven leagues of land spoken of by virtue of conveyance from any other and what person, did he at the same time, or at any other time before or after, state the particular person from whom derived, and the circumstances of the acquisition thereof; did he then, before or after, state whether the said land was or not to be held in trust by him for the benefit *or* any other and what

person; and if yea, what was that trust; for whose benefit, and how was he to be compensated for the performance of the same?

11th interrogatory. Did you at any time hear the said Antonio Blandin set up any claim to the said eleven leagues of land, before referred to, as his own, or claim that he had ever paid any money or other valuable thing therefor?

12th interrogatory. When you knew the said Antonio Blandin, what were his circumstances; was he in possession of property unembarrassed, or was he embarrassed by debts; will you state all you know on this subject of your own knowledge, or learned from conversations with the said Blandin?

13th interrogatory. If said Antonio Blandin, in conversation with you, admitted or stated that said eleven leagues were held in trust for any other person or persons whatever, did he express any desire to be divested of said trust, and give any reason for that desire; and if yea, what was that reason?

14th interrogatory. Was or was not the eleven leagues of land before referred to, embraced or conveyed by the authentic act referred to in exhibit A before alluded to; and if yea, what other lands were embraced or conveyed by the same; and what reason was given by said Antonio Blandin for conveying the same?

15th interrogatory. What interest, if any, have you in the matters in litigation between the parties to this suit? Please state every thing on this subject fully and particularly, showing the interest and its extent, if any, and whether the same be more on one side than the other, or equally balanced.

16th interrogatory. Do you know any thing further which may be of service to either of the parties, complainants or defendants; will you state the same fully and particularly?

ROBT. HUGHES,
For complainants.

February 17th, 1851.

We acknowledge service of the within interrogatories, decline to file cross interrogatories, and consent to the immediate issuance of a commission to John S. Jones, expressly reserving all legal objections, except as to the of the time prescribed by the rules of the court previous to taking out a commission.

Feb. 18, 1851. ALLEN & HALE.

UNITED STATES DISTRICT COURT,
District of Texas.

GEORGE L. HAMMEKIN and WIFE
vs.
NATHANIEL HOYT et als.

Be it remembered, that, on the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and fifty-one, in pursuance of the annexed dedimus potestatem, and to me directed, I, John

S. Jones, one of the commissioners of affidavits and bail for said district of Texas, did call and cause Elisha M. Pease to be and personally appear before me, at my office, at the court-house of the United States district court, for said district of Texas, in the city of Galveston, to testify, and the truth to say in behalf of complainants, in answer to the annexed interrogatories in a certain suit in chancery now depending in said district court, wherein George L. Hammekin and wife are complainants, and Nathaniel Hoyt, William M. Hudson and wife, James Blandin, and Elisha M. Pease, are defendants; the said Elisha M. Pease having appeared, and (being about the age of thirty-eight years) being by me first duly sworn according to law, and cautioned to testify the whole truth in the matter in controversy aforesaid, did depose and say, as follows:

To the first interrogatory to him addressed he says: I am acquainted with George L. Hammekin, Nathaniel Hoyt, James Blandin, William M. Hudson and Josephine, his wife, but am not acquainted with Adelaide Matilda, wife of Mr. Hammekin.

To the second interrogatory to him addressed he says: I became acquainted with Antonio Blandin early in the year 1837; he was reported to be the father of James Blandin and Josephine, wife of William M. Hudson.

To the third interrogatory to him addressed he says: I have no particular knowledge of the business of Antonio Blandin, except what was derived from conversations with him. Some time in the year 1838, he consulted with me about paying the Government dues on three grants of eleven leagues of land located in Texas; afterwards, I think in the summer of 1838, said Blandin called on me, and stated that he had the title to said three eleven league grants, one of which, I think, is the grant in contest in this suit; he said that the said grants had been conveyed to him by the owners of the same, in order that he, as a resident citizen of Texas, might hold and manage the same for the benefit of said owners; that he had paid the Government dues, and some other expenses, on the said grants; that he was to have a part of the land for his services, and was to be reimbursed for all charges and expenses that he might incur on account of said lands. He also stated that he was becoming embarrassed in his affairs, and that he, as well as the other parties interested, were desirous that he should convey the title to some citizen of Texas, in whose hands they would be safe; and he requested me to take a conveyance from him for these grants, and give him, Blandin, an obligation to reconvey to him when requested. I do not now recollect whether said Blandin informed me who the owners were for whom he held said lands.

To the fourth interrogatory to him addressed he says: I had many conversations with said Blandin about his business transactions, on his own account and on account of others, for he was frequently in the habit of consulting with me; but I do not now recollect particularly any other conversation than that detailed in my answer to the 3d inter-

rogatory. His object in said conversation I have stated as he told it to me.

To the fifth interrogatory to him addressed he says: I have stated, in my answer to the 3d interrogatory, all that I knew about the object of Mr. Blandin in his said conversation with me, and all that I knew about the reasons he had for the attainment of that object. Soon after the conversation between the said Blandin and myself, detailed in my answer to the 3d interrogatory, the said Blandin conveyed the said three eleven league grants to me, by deed duly executed, which deed I believe to have been recorded in Brazoria county. The original deed was given to said Blandin, to be recorded in the counties where the lands are situated, but I do not recollect ever to have seen said deed since. At the same time said deed was delivered to me by said Blandin, I executed in favor of said Blandin an obligation to reconvey said lands to said Blandin, or to any person he might designate, when requested so to do by him or his legal representatives, provided said Blandin should at all times pay all taxes or other dues that might accrue on said lands, and save me harmless from all charges whatsoever on account of said lands.

I have examined exhibit A, attached to the answer of James Blandin, filed in this cause, and believe it to be a true copy of the obligation that I gave to said Antonio Blandin, and which he accepted.

To the sixth interrogatory to him addressed he says: I believe that the tract of land in contest in this suit is one of the grants included, and referred to in said obligation given by me to Blandin.

To the seventh interrogatory to him addressed he says: In my answer to the 3d interrogatory I have stated all that I know, and all that Antonio Blandin told me about his title to said eleven leagues of land.

To the eighth interrogatory to him addressed he says: I have stated in my answer to the third interrogatory what reasons said Blandin gave me for his executing the authentic act referred to in said exhibit A.

To the ninth interrogatory to him addressed he says: I do not recollect that said Blandin ever told me by whom said tract of land had been conveyed to him; all I know about the purpose for which it was conveyed to him I have stated in my answer to the 3d interrogatory; and all I know about the title claimed to said land by Mr. Blandin, for his own benefit, or for the benefit of any other person, is stated in my answer to the 3d interrogatory.

To the tenth interrogatory to him addressed he says: In my answers to the previous interrogatories I have stated all that I know in relation to the matters concerning which I am in this interrogatory interrogated.

To the eleventh interrogatory to him addressed he says: My previous answers contain all that I know about the subject named in this interrogatory.

To the twelfth interrogatory to him addressed he says: When I first knew Mr. Blandin, in 1837, he was in possession of considerable property, and was generally considered to be unencumbered with debts;

subsequently, about the time he conveyed said grants to me, he told me he was much embarrassed by debts.

To the thirteenth interrogatory to him addressed he says: All that said Blandin ever told me about his desire to be divested of said lands, and his reasons therefor, has been fully set out in my answer to the 3d interrogatory.

To the fourteenth interrogatory to him addressed he says: I believe the said eleven leagues of land were embraced and conveyed by said authentic act referred to in exhibit A, and I think two other grants, for eleven leagues each, were embraced and conveyed by said authentic act, but I have no means of telling except by reference to said act, which is not in my possession, and which I believe to have been given by me to Mr. Blandin; the reason given by Mr. Blandin for making said conveyance I have stated in my answer to the 3d interrogatory.

To the fifteenth interrogatory to him addressed he says: I do not consider that I have any pecuniary interest in the matter in litigation between the parties to this suit.

To the sixteenth interrogatory to him addressed he says: I have stated all I know that can be of service to either of the parties to this suit.

E. M. PEASE.

JOHN S. JONES,
United States Commissioner.

UNITED STATES OF AMERICA,
District of Texas, to wit.

I, John S. Jones, commissioner as aforesaid, certify, that the foregoing deposition was taken by me on the day and at the place in the caption mentioned, and that the same was reduced to writing by me in the presence of the deponent; that the same was read over to said deponent, and understood by him, and that he thereupon signed his name thereto in my presence.

In witness whereof I hereunto subscribed my name and affixed my private seal, at the city of Galveston, this the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and fifty-one.

JOHN S. JONES, [L. S.]
U. S. Commissioner.

Complainants offered the foregoing deposition in evidence at the hearing, but it was objected to by defendants on the ground that the witness was a party, and the commissioner who had taken the same did not appear to have been sworn; upon which latter ground the objection was sustained, and the deposition ruled out.

JAMES LOVE, *Clerk.*

June 27th, 1851.

UNITED STATES OF AMERICA,
District of Texas.

To Albert C. Ainsworth.

Having and reposing especial trust and confidence in your prudence, skill, and ability, we have, and do by these presents, constitute and appoint you commissioner to take the answer of Pierre Soulé, of New Orleans, Louisiana, to the annexed interrogatories; you will therefore cause the said Pierre Soulé to come before you at such time and place as may best suit your convenience, and after duly swearing and cautioning the said Pierre Soulé, esquire, you will reduce the answers of the said Pierre Soulé, of New Orleans, Louisiana, to writing to the annexed interrogatories, duly certified according to law, and return the same under your hand and seal to the clerk of the United States district court for the district of Texas, so that the same may be used as evidence on the trial of a certain cause wherein Hammekin and wife are complainants, and Nathaniel Hoyt et al. are defendants, now pending in our said United States district court.

Herein fail not, and make return hereof as soon as possible.

Witness the hon. John C. Watrous, judge of said court, and seal of court, this 15th day of August, A. D. eighteen hundred and [SEAL.] forty-eight, and seventy-third year of the independence of the United States.

THOS. BATES, *Clerk.*

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in the cause, take the examinations and depositions of all and every witness and witnesses, produced and examined, by virtue of the commission annexed, upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons whatsoever, the contents of all or any of the depositions of the witnesses, or any of them, to be taken by me, until publication shall pass pursuant to some general or special order of the court wherein the same are taken: So help me God.

A. C. AINSWORTH.

Subscribed and sworn to, this eighteenth day of November, A. D. 1848, before me.

THEO. H. McCALEB,
United States district judge, for Louisiana.

THE UNITED STATES OF AMERICA,
District of Texas, to wit.

District court, in chancery.

Between George L. Hammekin and Adelaide Matilda, his wife, complainants,
and
Nathaniel Hoyt and James Blandine, adm'rs, &c., of Antonio Blandine, deceased, and Wm. M. Hudson and Josephine, his wife, and said James Blandine, heirs at law of said Antonio Blandine, deceased, defendants.

Interrogatories to be propounded to John A. Merle and Pierre Soulé, of the city of New Orleans, State of Louisiana, upon the taking their depositions in behalf of the complainants in the above stated cause, now pending and undetermined in the district court aforesaid.

1st interrogatory. Will you state whether you are acquainted with all, or either, and which, or how many, of the parties to this suit?

2d interrogatory. What do you know of a grant, if any such there was, by the government of Coahuila and Texas, in the now State of Texas, to Adelaide Matilda Mexia, now Adelaide Matilda Hammekin, of eleven leagues of land?

3d interrogatory. Do you know any thing of a sale or transfer of said eleven leagues of land to John A. Merle or Antonio Blandin, or any other, and what person or persons; and if yea, when, where, and how was said sale made; was said sale or transfer made by said Adelaide Matilda Mexia, or any person or persons for her?

4th interrogatory. If any such sale or transfer, as is supposed in the last foregoing interrogatory, was made, and not by the said Adelaide Matilda, by whom was the same made; was the same made by José Antonio Mexia, or any one else for him; and if yea, if you know, please state for what purpose and upon what consideration or price said sale and transfer was made.

5th interrogatory. Was the said sale or transfer, if any such was made, to and upon any and what trust or trusts, and was the same so made to or for the benefit of said Adelaide Matilda, or any other person for her, or for any other and what person or persons?

6th interrogatory. If any such sale or transfer was made, have you in your power, and will you annex to your deposition, and in answer to this interrogatory, a true copy duly authenticated of all the instrument or instruments of said sale or transfer, together with any instrument or instruments of, or declarations of, trusts, then or subsequently executed by the person or persons taking or claiming under said sale or transfer; and if in the French language, annex also a true translation of said instrument or instruments, and state whether said instrument or instruments are or are not true and correct copies of the originals, and correctly translated?

7th interrogatory. Was or was not said sale or transfer made to or for Antonio Blandine; and if yea, in what manner and for what purpose? Did said Antonio Blandine then or at any time pay any, and what, consideration or price for said transfers?

8th interrogatory. After said sale or transfer, if any such was made, was there any, and what, declaration or instrument of trust executed by the person to whom said transfer or sale was made; and if yea, upon what consideration, cause, or motive?

9th interrogatory. If any such sale or transfer and declaration was made, was the act evidencing said sale or transfer, or declaration, or trust, an authentic act or unauthentic according to the law of Louisiana; if authentic, before what notary public was the same executed?

10th interrogatory. Have you in your power to produce any letter or letters from the said Antonio Blandine as to the said land, to said Adelaide Matilda, or any other person or persons representing or acting for her; if yea, please to make said letter a part of your deposition in answer to this interrogatory, and if written in the Spanish or French language, annex also a translation, and state whether the original is, or is not, in the handwriting of said Blandine, and whether the translation is, or is not, true.

11th interrogatory. Do you know of any other fact, act, matter, or thing which may be of service to the parties, or either of them? If yea, please to state the same fully, giving time, place, and circumstances?

July 11th, 1848. HUGHES & ROSE,
For complainants.

A. G. AINSWORTH, *Com'r.*

To Nathaniel Hoyt, James Blandine, William M. Hudson and Josephine, his wife, or Messrs. Merryman, Allen & Hale, their counsel:

GENTLEMEN: Please to take notice, that the foregoing interrogatories have been filed with the clerk in the office of the district court of the United States, for the district of Texas, and that ten days after the service of this notice on you *I* will apply for the issuance of commissions to take the depositions of the witnesses in said interrogatories named, and you may join in commission by filing cross interrogatories, if you think proper.

Your obedient servants,
HUGHES & ROSE,
For complainants.

July 11th, 1848.

STATE OF LOUISIANA,
Parish and city of New Orleans.

The deposition of Pierre Soulé, a witness produced, sworn, and ex-

amined on Saturday, the eighteenth day of November, in the year of our Lord one thousand eight hundred and forty-eight, at the office No. 38, Camp street, in the city of New Orleans, and State of Louisiana, by virtue of a commission issuing out of the district court of the United States, for the district of Texas, to me directed, for the examination of the said Pierre Soulé, esq., of said city of New Orleans; his answers to certain interrogatories to said commission appended, so that the same may be used as evidence on the trial of a cause wherein Hammekin and Wife, are complainants, and Nathaniel Hoyt et alii, are defendants, now pending in the said United States district court.

Now, I, Albert Childe Ainsworth, the special commissioner appointed as aforesaid, having first duly taken the oath, on the reverse of said commission written, according to the tenor and effect thereof, did, on the day and in the year, and at my said office, No. 38, Camp street, call and cause to come before me, Pierre Soulé, of the city of New Orleans aforesaid, aged years; a witness produced on the part and behalf of the complainants, sworn by me on the holy evangelists of Almighty God true answers to make to all such questions as should of him be asked on said interrogatories, without favor or affection to either party, and therein to speak the truth, the whole truth, and nothing but the truth.

In reply to the first interrogatory to him addressed the witness saith: I am acquainted with George L. Hammekin and with Adelaide Matilda, his wife; I was also acquainted with the deceased, Antonio Blandin.

To second interrogatory. I know nothing of such a grant from the State of Coahuila and Texas to Adelaide Matilda Mexia.

By some Spanish papers purporting to be copies of the originals, I have seen that a grant was made by said State to one Pedro Varela, who transferred his rights to the said Adelaide Matilda, daughter of General José Antonio Mexia.

To third interrogatory. The sale or transfer alluded to, in this interrogatory, was made by General Mexia to John A. Merle, without consideration, and for the sole purpose of protecting the property of his children against some imaginary laws which were spoken of to deprive Mexicans of their property in Texas; subsequently (having been apprised that only Texian citizens could hold property in Texas) he requested John A. Merle to transfer these lands to Antonio Blandin.

To the fourth interrogatory. This interrogatory is answered by my response to interrogatory third. I have stated the purpose, and to the best of my knowledge no consideration was ever paid to Mexia, either by Merle or by Blandin.

To the fifth interrogatory. These sales or transfers were made for the sole object as I have stated of protecting the interests of Adelaide and Henry, minor children of General José Antonio Mexia.

To sixth interrogatory. I annex hereunto a certified copy (marked A) of the sale or transfer to John A. Merle, and also a translation of the same, (marked AA,) which I believe to be correct. Also, a certi-

fied copy of the declaration by which John A. Merle put these lands in the name of Antonio Blandin, (marked B,) and a translation of the same, (marked BB,) which I believe to be correct.

To seventh interrogatory. I was well acquainted with Antonio Blandin. He came to see and to consult with me. He often spoke of these lands in Texas as being confided to his care; and never spoke of them as being his private property. To the best of my recollection, he spoke as one who had never paid any price or consideration therefor.

To interrogatory eighth. After the sale a transfer was made to John A. Merle, an American citizen; on the 10th of February, 1836, the constitution of the Republic of Texas was published, which prohibited foreigners from holding lands, unless their titles emanated directly from the Republic; and this, to the best of my knowledge, was the only consideration, cause, or motive why John A. Merle made the declaration, a certified copy of which is hereunto (as above named) annexed.

To ninth interrogatory. The acts evidencing the sale, transfer, and declaration, were authenticated before Amedee Ducatel, a duly commissioned notary public, in and for the parish and city of New Orleans.

To tenth interrogatory. I may have in my possession some such letters, but I cannot, at this time, lay my hand on them.

To eleventh interrogatory. The laws of Louisiana forbid the sale or transfer of a child's property by the parents or guardians without an order from the judge, granted on the advice of a family meeting. This is the only fact of which I am aware that will serve either of the parties. My recollection is very distinct as to the conversations holden with Antonio Blandin from time to time; and, invariably, in speaking of these two concessions, he spoke of them as a trustee, and not as owner. The only act which I know of is the annexed affidavit (marked C) of John A. Merle, made before A. C. Ainsworth, commissioner for the State of Texas, executed prior to his departure for Europe, where now I suppose him to be. I am well acquainted with Mr. Merle's handwriting, having often seen him write; and I know his signature to the affidavit alluded to to be genuine.

P. SOULE.

And I, Albert Childe Ainsworth, commissioner as aforesaid, hereby certify, that I reduced the above deposition to writing, in the presence of the witness, and read the same to him, whereupon he subscribed his name thereto as above written.

Given under my hand and seal.

[SEAL.] A. C. AINSWORTH, *Com'r.*

A.

VILLE DE LA NOUVELLE ORLEANS,
Etat de la Louisiane, Etats Unis d'Amerique.

Aujourd'hui le dix Fevrier, mille huit cent trente-six, l'an soixante de l'independence Americaine, pardevant Amedée Ducatel, notaire publique dans et pour cette ville et paroisse d'Orleans, en présence des

témoins ci-après nommés et soussignés, a comparu Mr. Don José Antonio Mexia, ci-devant de la République des Etats Unis Mexicains, et aujourd'hui de cette ville; lequel a déclaré que tant comme père et tuteur naturel de ses enfans, Henrique Mexia et Adelaïde Mathilde Mexia, mineurs, qu'en vertu du consentement et de l'autorisation de son épouse, Dame Charlotte Mexia, mère des dits mineurs, (appert la lettre à cet effet ci-annexé pour recours.) Il vende, cede, et transporte, sous toutes les guaranties de droit, avec substitution et subrogation à tous droits et actions de guarantie, qu'ont et pouvoient avoir ses dits enfans, contre tous précédens vendeurs ou propriétaires, à Mons. John Ami Merle, de cette ville, ici présent et acceptant acquéreur, pour lui, ses héritiers, et ayans cause.

A. *Indented.*

1o. Onze sitios ou portions de terre appartenant au dit Henrique Mexia, situés dans le Texas, et qui lui proviennent ou transfert que lui en a fait Mariana Riva Palacios, par acte du 24 Mars, 1825, devant José Lopez Guazo, écrivain national et publique à Mexico, et lesquelles avaient été concedés au dit M. R. Palacios par le Gouvernement de Coahuila et Texas. Et par décrets du Gouvernement de l'Etat de Coahuila y Texas la possession et propriété des dites terres ont été confirmées en faveur des dits Henrique Mexia et Adelaide Mathilde Mexia, le prémier en date du 21 Novembre, 1833, et l'autre en date du 23 Novembre de la même année. En ce moment le dit Sr. Don Jesé Antonio Mexia a fait remise à Mr. John M. Merle des differentes titres d'ont il est ci-dessus fait mention. La présente vente est faite et acceptée pour le prix et somme totale de quatorze mille six cent douze piastres et demi, savoir, à raison de quinze cents par acre de superficie, en tout quatre-vingt-dix sept mille quatre cent seize acres; laquelle somme totale le dit Sr. José Antonio Mexia, es qualité déclare et reconnait avoir reçue comptant du dit Sieur John A. Merle, au profit duquel il concéde bonne et valable quittance et décharge. Pour par le dit Sieur John A. Merle, ses héritiers, et ayans cause, faire, jouir, et disposer, en tout propriété des vingts portions de terre au moyen des présente, et en se conformement à toutes les conditions et obligations auxquels etaient et pourraient être soumis les dits Henrique et Adele Mathilde Mexia, en vertu des lettres originaires. Dont acte,

Fait et passé à la Nouvelle Orleans en l'étude, en présence de Messieurs Edouard Lavigne et Pierre Pascalis La Barre, domiciliés en cette ville, qui ont signé, avec les parties et le notaire, après lecture faite.

(Signé) JOSE ANTONIO MERLE,
JOHN A. MERLE,
P. P. LA BARRE,
E. LAVIGNE,
AMEDEE DUCATEL,
Notaire Publique.

I do hereby certify the foregoing to be a true copy of the original on

record and file in my office, In faith whereof I have hereunto set my hand and affixed the seal of my office at New Orleans, this 22d March, 1848.

AMEDEE DUCATEL, *Not. Pub.*

District court of the United States, district of Texas.

A.

(*Indented.*)

Between HAMMEKIN and Wife, complainants,
vs.
NATHANIEL HOYT et al., defendants.

STATE OF LOUISIANA,
City and parish of Orleans.

On this eighteenth day of November, 1848, at the execution of a commission for the examination of witnesses in this cause, this indented paper writing was produced and shown to Peter Soulé, esq., a witness sworn and examined, and by him deposed unto at the time of his examination in the complainants' behalf.

A. C. AINSWORTH, *Comm'r.*

AA.

City of New Orleans, State of Louisiana, United States of America.

This tenth day of February, eighteen hundred and thirty-six, the sixtieth year of the independence of the United States of America, before Amedée Ducatel, a notary public in and for the city and parish of Orleans, in presence of the hereinafter named and undersigned witnesses, personally appeared Mr. Don José Antonio Mexia, formerly of Mexico, and now of this city, who has declared that, in his capacity of father and natural tutor of his minor children, Henrique Mexia and Adelaide Mathilda Mexia, in virtue of the consent and authorization of his wife, Mrs. Charlotte Mexia, the mother of said minors, (as per the letter to that effect hereto annexed for reference,) he sells, sets over, and transfers, with all legal guarantees, with substitution and subrogation to all rights and actions in warranty which his aforesaid children have, or may have, against former purchasers or owners, to Mr. John Ami Merle, of this city, here present and accepting, purchaser for himself, his heirs, and assigns—

1st. Eleven sitios or parcels of land belonging to said Henrique Mexia, situated in Texas, his property, by transfer to him made by Mariano Riva Palacios, as per act of the 2d day of March, 1835, before José Lopez Guazo, a notary public in Mexico, and which were granted to said M. R. Palacios by the government of Coahuila y Texas.

2d. And eleven other sitios or parcels of land, situated in the same

place, belonging to Adelaide Mathilda Mexia, by virtue of the transfer to her made by Pedro Varela, as per act of the 29th of March, 1832, before the same notary, and which said land had been granted to said P. Varela by the same government of Coahuila y Texas.

And by decrees of the government of the State of Coahuila y Texas, the possession and ownership of said lands were confirmed in favor of said Henrique Mexia and Adelaide Mathilda Mexia, the first on the 21st of November, 1833, and the other on the 23d November, of the same year.

Said Dn. José Antonio Mexia has personally handed over to Mr. John A. Merle the several titles herein before mentioned.

The present sale is made and accepted for the total price and sum of fourteen thousand six hundred and twelve dollars, to wit, at the rate of fifteen cents per superficial acre, there being altogether ninety-seven thousand four hundred and sixteen acres; which total sum the said Dn. José Antonio Mexia, in his aforesaid capacity, declares and acknowledges to have received cash from the said John A. Merle; for benefit he grants good and lawful discharge.

The said twenty parcels of land to be used, enjoyed, and disposed of by said John A. Merle, his heirs and assigns, as his entire property, in virtue of these presents, and upon his fulfilling all the conditions and obligations to which were bound, or may become bound, the said Henrique Adéle Mexia, under the original titles.

This done and passed in New Orleans, in the office, in presence of Edward Lavigne and Pierre Paxalis La Barre, residing in this city, who have hereunto affixed their signatures with the parties and the notary, the present act having been read.

(Signed) JOSÉ ANTONIO MEXIA,
JOHN A. MERLE,
P. P. LA BARRE,
E. LAVIGNE,
AMEDEE DUCATEL,
Notary Public.

District court of the United States, district of Texas.

Between HAMMEKIN and wife, complainants,
and
NATHANIEL HOYT et al., defendants.

STATE OF LOUISIANA,
City and parish of New Orleans.

On this eighteenth day of December, 1848, the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Peter Soulé, esq., a witness sworn and examined, and by him deposed unto at the time of his examination on the complainants' behalf.

A. C. AINSWORTH,
Commissioner.

Parcel of Document A.

GENERAL JOSEPH A. MEXIA,

MEXICO, *December 10th*, 1836.

MY DEAR HUSBAND: I have just received your letter of the 16th October, in which you ask my opinion about the disposial of the 11 leagues of land which each one of our children, Adela and Henery, have in Texas. You know very well that my opinion is yours. You bought the lands, and made them over to the children, and ought, therefore, to do with them whatever you think is for *there* good. I think you will do well to sell them to Mr. Merle for the price you mentioned to me, as the affairs in Texas look bad, and as am aforaid there will be difficults there which I should not wish you to mix in.

So that, for my part, you have my full consentment to sell them, and you this letter will serve you as a *fomely* desicion, as you and I are the only persons concerned.

I remain, your affectionate wife,

CHARLOTTE MEXIA.

I do hereby certify the foregoing to be a true copy of the original letter deposited in my office, and annexed to an act dated the tenth February, eighteen hundred and thirty-six, purporting to be a sale by Dn. Ant. Mexia to John A. Merle o[f], 1o, eleven sitios or parcels of land situated in Texas, belonging to Henrique Mexia, and 2o, eleven other sitios or parcels of land, also situated in Texas, belonging to Adelaide Mathilda Mexia, his minor children.

In faith whereof I have hereunto set my hand, and affixed the seal of my office at New Orleans, this twenty-second day of [SEAL.] March, eighteen hundred and forty-eight, the twenty-second year of American independence.

AMEDÉE DUCATEL,
Not. Pub.

B.

En la ville de la Nouvelle Orléans, dans l'Etat de la Louisiane, ce quinze Mai, mil huit cent trente-sept, l'an soixante-un de l'independance Américaine. Pardevant Amedée Ducatel, notaire public, dans et pour la ville et paroisse d'Orléans, en présence des témoins ci-après nommés et soussignés, a personellement comparu Monsieur John A. Merle, négociant de cette ville, lequel a declaré que quoique par deux actes en date du dix Fevrier, mil huit cent trente-six, au rapport du notaire soussigné il paraisse propriétaire de trois portions de terre, savoir: 1o. Onze sitios (emplacement d'une lieue chaque, concedés par le gouvernement de l'Etat de Coahuila y Texas, le sept Mai, mil huit cent trente-et un, au citoyen Mexicain, J. Miguel Murquiz; et 2o, onze autres sitios ou portions de terre, concedées par le même gouvernement au sieur M. B. Palacios; et enfin 3o, onze autres sitios

concedés par le gouvernement de Coahuila y Texas, à Mr. P. Varela, lesquelles portions de terre sont plus amplement décrites aux deux susdits actes du dix Fevrier, (1836). La vérité est qu'il n'a acquis les dites trois portions de terre que pour le compte de Mr. Antonio Blandin, citoyen du Texas, au profit du quel il fait la présent déclaration pour servir et valoir contre qui de droit, le dit sieur Merle déclarant en outre que les dites terres ont été payées des fonds appartenant au Sieur Blandin.

B.

En consequence de cette declaration, le dit sieur Blandin est bien et dûment propriétaire des dites portions de terre, et pourra en jouir, faire et disposer comme bon lui semblera le dit Sieur John A. Merle, le substituant et subrogeant dans tous les droits de propriété, qui lui etaient acquis par les deux actes au rapporte du notaire soussigné

Dont acte, fait et passé à Nouvelle Orléans, en l'étude les jours, mois et an que dessus, en présence de Messrs. Edouard Lavigne et Rosémond de Armas, témoins compétens, qui ont sign éavec les comparans, et le notaire apres lecture faite.

(Signé) ROSÉMOND DE ARMAS,
JOHN A. MERLE,
E. LAVIGNE,
AMEDÉE DUCATEL,
Not. Pub.

B.

Copie conforme à l'original.

I do hereby certify the foregoing to be a true copy of the [SEAL.] original, on record and file in my office, New Orleans, 22d March, 1848.

AMEDÉE DUCATEL,
Not. Pub.

District court of the United States, district of Texas.

Between HAMMEKIN and Wife, complainants,
and
NATHANIEL HOYT and al., defendants.

STATE OF LOUISIANA,
City and parish of New Orleans.

On this eighteenth day of November, 1848, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Peter Soulé, esq., a witness sworn and examined, and by him deposed unto at the time of his examination, on the complainants' behalf.

A. C. AINSWORTH, *Com'r.*

BB.

In the city of New Orleans, State of Louisiana, this fifteenth day of May, eighteen hundred and thirty-seven, the sixty-second year of the independence of the United States of America, before me, Amedée Ducatel, a notary public in and for the city and parish of Orleans, in presence of the undersigned and hereinafter named witnesses, personally came and appeared Mr. John A. Merle, a merchant of this city, who declared that although by two acts dated the tenth day of February, eighteen hundred and thirty-six, filed in the office of the undersigned notary, he appears to be the owner of three parcels of land, to wit: 1°, eleven sitios, (a tract of one league each, granted by the government of the State of Coahuila y Texas, the seventh day of May, eighteen hundred and thirty-one, to the Mexican citizen, J. Miguel Menquiz; 2°, eleven other sitios or parcels of land, granted by the same gevernment, to Mr. R. Palacios, and 3°, eleven other sitios, granted by the government of Coahuila y Texas, to Mr. P. Varela, which parcels of land are more fully described in the two aforesaid acts of the sixth of February, (1835.) The truth is, that he has purchased the aforesaid three parcels of land, for the account of Mr. Antonio Blandine only, a citizen of Texas, in whose behalf he makes the present declaration, to be used against whomsoever it may concern; said Merle further declares that said lands were paid for with certain funds belonging to said Blandin.

In consequence of this declaration, the said Blandin is well and truly the owner of the said parcels of land, to be enjoyed and disposed of according to his free will, said John A. Merle substituting and subrogating him to all the rights of ownership, which were acquired to him by the two acts in the office of the undersigned notary.

This done and passed in New Orleans, in my office, on the above mentioned day, month, and year, in presence of Messrs. Edward Lavigne and Rosemond de Armas, competent witnesses, who have, together with the appearers and the notary, affixed their signature, after reading of the present act being made.

(Signed) ROSEMOND DE ARMAS,
JOHN A. MERLE,
E. LAVIGNE,
AMEDÉE DUCATEL,
Notary Public.

BB.

District court of the United States, district of Texas.

Between HAMMEKIN and Wife, complainants,
and
NATHANIEL HOYT et al., defendants.

STATE OF LOUISIANA,
City and parish of New Orleans.

On this eighteenth day of November, 1848, at the execution of a

commission for the examination of witnesses in this cause, this paper writing was produced and shown to Peter Soulé, esq., a witness sworn and examined, and by him deposed unto at the time of his examination on the complainants' behalf.

A. C. AINSWORTH, *Com'r.*

C.

I hereby certify and declare that the two concessions of eleven leagues of land in Texas, granted to Mariano Riva Palacios, and to Pedro Varelo, transferred to me by José Antonio Mexia, before A. Ducatel, notary public in New Orleans, on the 10th February, 1836, and afterwards declared by me to have been purchased from said Mexia for A. Blandin, and with his, said Blandin's funds, were transferred without consideration, and not with the intention to vest either an equitable or fee simple title in said Blandin, but merely as a matter of form and convenience, and at the request of said Mexia, and as he, said Blandin, being a citizen of Texas, could the better protect the rights and property of his, said Mexia's, children. I further declare that said transfer or act of sale was made for the accommodation of the parties and conveyed the titles to said land to said Blandin only in trust for said children.

JOHN A. MERLE.

STATE OF LOUISIANA,
Parish and city of New Orleans.

Before me, Albert Childe Ainsworth, a commissioner for the State of Texas, duly appointed to act in the State of Louisiana, with power to administer oaths and affirmations, personally appeared John A. Merle, esq., to me well known, who, being by me, said commissioner, duly and solemnly sworn to depose the truth in the premises, declared and said, that the statement by him made, signed, and hereunto, under my seal, annexed, is true, just, and in every particular correct.

In faith whereof I grant these presents, under my signature and seal of office, at New Orleans, this tenth day of April, in the year one thousand eight hundred and forty-eight.

[SEAL.]

A. C. AINSWORTH,
Commissioner.

District court of the United States, district of Texas.

Between HAMMEKIN and Wife, complainants,
and
NATHANIEL HOYT et als., defendants.

STATE OF LOUISIANA,
City and parish of New Orleans.

On this eighteenth day of November, 1848, at the execution of a

commission for the examination of witnesses in this cause, this paper *arising* was produced and shown to Peter Soulé, esq., a witness sworn and examined, and by him deposed unto at the time of his examination.

A. C. AINSWORTH,
Commissioner.

Offered in evidence by complainant, and, on motion of defendant, suppressed.

Afterwards, to wit, on the , the following document was adduced in evidence on the part of the defendants, which is in the words following, to wit:

Selle Tercero. [SEAL.] *Dos Reales.*

Para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

En la ciudad federal de Mejico á veinte-nuebe de Marzo de mil ochocientos treinta y dos. Ante mi, el escribano y testigos, Dn. Pedro Varela, de esta vecindad, a quien doy fé conozco otorga. Que de su libre voluntad tras para a favor de la Sña. Doña Carlotta Walker, muger legitima del Sr. Don José Antonio Mexia, para su hija menor Doña Adelaida Matilde Mexia, los once sitios de tierra que ha obtenido da gobierno de Coahuila y Tejas en el departamento de Tejas, para que con arreglo a las leyes y principalmente a la colonizacion de aquel estado de fecha veine-cuatro de Marzo de mil ochocientos veinte-cinco, pueble, goce, cambie ó enagene a su entera voluntad como dueña absoluta de ellos, en virtud de cederle todas sus acciones y derechos quedando reiponsable Varela a la Señora Walker de la possession de dichos terrenos hasta que el commissionado de aquel Gobierno libre los documentos que autorizan al proprietario a titularse por tal, siendo del deber y obligacion de la Señora Walker el cumplimiento en un todo con las condiciones prebenisas por la citada ley y satisfacer al supremo Gobierno del Estado el valor que tienen y expresarán los titulos de posesion, renunciando como renuncia las leyes y privilegios que le parecen, esprecialmente la primera titulo once libro quinto de la Recopilacion, que habla en razon de las cosas que se compran, cambians, trasparan, enagenan y permutan en en masó menos de la mitad de su legitimo precio, y el remedio de los cuatro años en ella prefiridos para pedir recision del contrato o suplemento a su justo valor, que da por pasados como si lo estubiezen, desistiendo se de todo derecho a los indicados once sitios de tierra, que como va dicho cede y renuncia en la Sra. Walker para su menor hija Da. Adelaida Matilde Mejia y a la estabilidad de este instrumento estando presente la citada Sra. Da. Carlota Walker, y en virtud de la licencia que le tiene concedida ensile del corriente el Sr. Alcalde, segundo constitucional de esta ciudad, Coronel Dr. Alejandro Alvarez Guitian, por la ausencia en Vera Cruz de su marido el Sr. Dn. José Antonio Mejia para celebrar

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su contratos, constante del expediente, q. original obra protocolizado, en el poder q. confirro ante mi d'ha S'ra. en la misma fecha á favor de Don Juan Martin Veramendi, de que doy fé y de conocerle, habiendo sido el tenor de esta escritura, dijo: que la acepta en todas sus partes, y se obliga a cumplir con todas las prevenciones y obligaciones que marcan las leyes del Estado de Coahuila y Tejas y principalmente, *y principalmente* con la de colonization sancionada en veinte-cuatro de Mario de mil ochocientos veinte-cinco, par acuya observancia, cada uno de los otorgantes por lo q. á su parte toca obligan sus bienes presentes y futuros con la guarentigia en forma, renunciando cuantas leyes les favorescan, especialmente la S'ra Walker la sesenta y uno de Toro que dice: que cuando marido y muger se obligan en un contrato o a diversos, á nada quede obligada aun cuando se convierta en su beneficio, y ademas jura en toda forma: que no ha sido compulsa en este contrato, por sugestion de su marido ni por otra persona en su nombre, sino que lo hace libremente por el beneficio que resulta a su menor hija, declarando que no tiene hecha protesta contra esta escritura, ni la hara. Y firmaron siendo testigos Dn. Manuel Cartaneda, Dn. Manuel Paeza, y Dn. Francisco Gomales, de esta vecindad.

Doy fé, PEDRO VARDA,
CARLOTA WALKER de MEJIA,
JOSÉ LOPEZ GUARO,
Escribano nacional y publico.

Sacóse para la parte esta segunda copia a dies y seis de Mayo de mil ochocientos treinta y cinco, y va en un pliego del sello tercero corriente: corregido: doy fé.

JOSÉ LOPEZ GUAZO, [SEAL.]
Esno. nacl. y pco.

Damos fé q. el C. José Lopez Guazo por qui la va signado y firmado el testimo. de la anterior escra. es escribano nacional y pubco. de esta capl. como se titula, fiel y de toda confianza; y como tal, a todo cuanto autoriza, se le da entera fé y credito en ambos juicios y pa. consta. ponemos la preste. sellada con el de esno. nacional colegio en la ciudad federal de Mejico, a dies y seis de Mayo de mil ochocientos treinta y cinco.

MAR. CABEZA DE VACA, [L. S.]
FRANCISCO MIGUEL CALAPIN, [L. S.]
VERMIN VILLA. [L. S.]

Consulate of the United States of America,
for the city of Mexico.

The undersigned, consul of the United States of America, hereby certify, that the signatures of Mariano Cabeza de Vaca, Fermin Villa,

and Francisco Miguel Calapin, subscribed to the annexed document of transfer of title by Pedro Varela in favor of Dna. Adelaide Matilda Mexia, of eleven sitios de tierra en Texas, are well known to me, that the same are duly authorized notary publics of this city, and members of the college of notary publics, and that full faith and credit should be given thereto.

In testimony whereof I have hereunto set my hand and seal of office in the city of Mexico, this 27th day of October, in the year 1835.

[SEAL.]

W. L. PARROTT.

TRANSLATION.

Transfer of 11 *leagues of land from Pedro Varela to Charlotte Walker Mexia, for the use of Adelaide Matilda Walker.*

Third stamp, two rials, for the year one thousand eight hundred and thirty-four and [STAMP.] eight hundred and thirty-five.

In the federal city of Mexico, on the twenty-ninth day of March, one thousand eight hundred and thirty-two, personally appeared before me, a notary public and witness, Pedro Varela, of this city, whom I know, and to whose acts I give faith; and who declared that, of his own free will and accord, he transfers to Mrs. Charlotte Walker, the legitimate wife of José Antonio Mexia, for the use of her younger daughter, Adelaide Matilda Mejia, the eleven leagues of land which he has obtained from the government of Coahuila and Texas, in the department of Texas, in order that, in conformity to the laws, and in particular the colonization law of that State, bearing date the twenty-fourth day of March, one thousand eight hundred and twenty-five, she may settle, enjoy, exchange, or alienate the same, according to her free will, as absolute proprietress of the same, in virtue of his having ceded to her all his right and title; the said Varela being responsible to the said Mrs. Walker for the possession of said lands until the Government commissioner shall issue the documents which authorize the proprietor title as such; it being the duty and obligatory on Mrs. Walker to comply with all the provisions of said law, and to pay to the supreme government of the State the value of said lands as set forth in the titles of possession; and he, the said Varela, renounces all laws or privileges which might favor him, especially 1°, tit. 11, book 5, of the Recop., which treats of those things which are bought, exchanged, transferred, alienated, or trafficked for more or less than one-half of their true value, and of the remedy for the same, of the four years which are set for demanding a release from the contract, or that the true value be made up, which he allows to have passed, the same as if they had actually passed; and he renounces and transfers to the said Mrs. Charlotte Walker, for the use of her younger daughter, Miss Adelaide Matilda Mexia; and for the greater stability and security of this instrument, the said Mrs. Charlotte Walker being present, in virtue of the permission granted to her on the 10th instant by the second constitutional alcalde of this city,

Colonel Alexander Alvarez Guitian, granting her power, in consequence of the absence of her husband, José Antonio Mexia, at Vera Cruz, to make contracts in his name, as will appear by the instrument at the head of this act, in the power which the said Mrs. Walker executed in my presence, under the same date, in favor of Juan Martin Veramendi, which I certify; she said that she accepts the same in all its parts, and obliges herself to comply with all the provisions required by the laws of the State of Coahuila and Texas, and principally with the colonization law, sanctioned on the 24th March, 1825; for the observance of which, each party, in as far as they are concerned, bind themselves, with their persons and property, present and future, with guarantee and in due form, renouncing all laws that may favor them, especially Mrs. Walker the 71° de Toro, which says, that when a man and his wife bind themselves by contract, or to various persons, she is not bound, although it may be to her own benefit; and she moreover swears, in due form, that this contract is voluntary on her part, and that she has not been compelled to the same by her husband, nor by any other person in his name, and that she does it for the benefit which results to her younger daughter; further declaring that she has not and will not protest against this instrument, which they signed. Manuel Cartanueta, Manuel Paeza, and Francisco Gonzales, all of this city, being witnesses, which I certify. Pedro Varela, Charlotte Walker Mejia. José Lopez Guaro, notary public.

This second copy was taken for the party interested on the 16th May, 1835, and is written in a sheet of stamped paper of the 3d stamp, corrected, which I certify.

JOSE LOPEZ GUARO,
Notary public.

We certify, that citizen José Lopez Guaro, whose signature is affixed to the foregoing instrument, is a notary public for this city, duly commissioned, and to whose acts full faith is due.

In testimony whereof we have hereunto set the seal of the college of notary publics, at the federal city of Mexico, this 16th day of May, 1835. [SEAL.]

FRANCISCO MIGUEL CALAPIN.

MARO. CABEZA DE VACA.

On the back of which is the following endorsement by the clerk:

District court of the United States, district of Texas. In chancery.

HAMMEKIN and Wife
vs.
N. HOYT et al.

The within document was offered to be read at the hearing of this cause by the defendants, and was objected to by the complainants; but the objections were overruled, and the document read in evidence.

JAMES LOVE, *Clerk.*

Afterwards, to wit, the following documents were offered in evidence by the defendants:

VILLE DE LA N'ELLE ORLEANS,
Etat de la Louisiane, Etats Unis d'Amerique.

Aujourd'hui le dix Fevrier, mil huit cent trente six, l'an soixante de l'independence Americaine.

Pardevant Amedée Ducatel, notaire public dans et pour cette ville et paroisse d'Orleans; en présence des témoins ci-après nommés et soussignés, à comparu Mr. Dn. José Antonio Mexia; ci-devant de la République des Etats Unis Mexicains et aujourd'hui de cette ville; lequel a déclaré que tant comme père et tuteur naturel de ses enfans Henrique Mexia et Adelaide Mathilde Mexia, mineurs, qu'en vertu du consentiment et de l'autorisation de son épouse Da. Charlotte Mexia, mère des dits mineurs, (appert la lettre à cet effet ci-annexé pours recours,) il vend, cede, et transporte sous toutes les garanties de droit avec substitution et subrogation à tous droits et actions de garantie qu'ont et pourraient avor ces dits enfans, contre tous précedens vendeurs ou proprietaires, á Mr. John Ami Merle, de cette ville, ici présent et acceptant acquereur pour lui ses heritier et ayans cause.

1°. Onze sitios ou portions de terre appartenant au dit Henrique Mexia situées dans le Texas, et qui lui proviennent du transfert que lui en a fait Mariana Riva Palacios, par acte du 24 Mars, 1825, devant José Lopez Guazo, ecrivain national et public à Mexico, et lesquelles avaient été concedées au dit M. R. Palacios par le Gouvernement de Coahuila y Texas.

2o. Et onze autres sitios ou portions de terre, situées au même lieu appartenant à Adelaide Mathilde Mexia, au moyen du transfert que lui en a fait Pedro Varela par acte du 29 Mars, 1832, pardevant le même ecrivain public, et lesquelles avaient été concedées au dit P. Varela par le même gouvernement de Coahuila y Texas.

Et par décrets du gouvernement de l'Etat de Coahuila y Texas, la possession et propriété des dites terres ont été confirmées en faveur des dits Henrique Mexia et Adelaide Mathilde Mexia, le premier en date du 21 Novembre, 1833, et l'autre en date du 23 Novembre de la même année.

En ce moment le dit Sr. Dn. José Antonio Mexia a fait remise à Mr. John A. Merle des differens titres dont il est ci dessus fait mention.

La présent vente est fait et acceptée pour le prix et somme totale de quatorze mille six cent douze piastres et demie, savoir, à raison de quinze cents par acre de superficie, en tout quatre-vingt-dix-sept mille quatre cent seize acres; laquelle somme totale le dit Sr. José Antonio Mexia és-qualités déclare et reconnait avoir reçu comptant du dit Sr. John A. Merle, au profit duquel il concede bonne et valable quittance et décharge, pour par le dit Sr. John A. Merle, ses héritiers, et ayans cause faire, jouir et disposer en toute propriété des vingt deux portions de terre au moyen des présentes; et en se conformant à toutes les con-

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ditions et obligations auquels etaient et pourraient être soumis les dits Henrique et Adéle Mathilde Mexia en vertu des titres originaires.

Dont acte, fait et passé à la Nouvelle Orléans en l'etude, en présence de Messrs. Edouard Lavigne et Pierre Pascalis Labarre, temoins domiciliés en cette ville, qui ont signé avec les parties et le notaire, après lecture faite.

Signé, José Antonio Mexio, John A. Merle, P. P. Labarre, E. Lavigne, Amedée Ducatel, Not. Pub.

Pour copie conforme à l'original.

[SEAL.] AMEDÉE DUCATEL,
Not. Pub.

Translation of the foregoing document.

Translation of the foregoing document.

CITY OF NEW ORLEANS,
State of Louisiana, United States of America.

On this the [illegible]nth day of February, one thousand eight hundred and thirty-six, and the sixty-second year of American independence, before me, Amedée Ducatel, notary public in and for the city and parish of New Orleans, in presence of the witnesses hereinafter named and subscribed, personally appeared Don José Antonio Mexia, formerly of the United Mexican States, but at present of this city, and declared that, as well as father and natural tutor of Henry Mexia and Adelaide Matilda Mexia, minors, as by virtue of the consent and authorization of his wife, Mrs. Charlotte Mexia, mother of said minors, (as will appear by the letter to that effect hereunto annexed,) he sells, cedes, and transfers, under all the guarantees of law, with substitution and subrogation, to all the rights and actions of guarantee which his said children have, or might have, against all their previous vendors or proprietors, to Mr. John A. Merle, of this city, now present, and who accepts the same for himself, his heirs, or those having cause or right.

1st. Eleven leagues or parcels of land, belonging to said Henria Mexia, situated in Texas, and which he acquired by transfer, made to him by Mariano Riva Palacios, by deed bearing date the 24th day of March, 1825, executed before José Lopez Guazo, national notary public at Mexico, and which had been granted to said M. R. Palacios by the government of Coahuila and Texas.

2d. Eleven leagues or parcels of land, situated also in Texas, belonging to Adelaide Matilda Mexia, by virtue of a transfer made to her by Pedro Varela, by deed bearing date the 29th day of March, 1832, and executed before the said notary public, and which were granted to the said Pedro Varela by the said government of Coahuila and Texas. And by decrees of the government of Coahuila and Texas, the possession and property of said lands have been confirmed to the said Henry Mexia and Adelaide Matilda Mexia, the first bearing date 21st Novem-

ber, 1833, and the other bearing date the 23d November of the same year.

And the said José Antonio Mexia has this day handed to John A. Merle the different titles mentioned in the foregoing.

The present sale is made and accepted for the price and sum total of fourteen thousand six hundred and twelve dollars and a half, to wit, at the rate of fifteen cents of superficial acre, in all ninety-seven thousand four hundred and sixteen acres; which sum total the said José Antonio Mexia declares and acknowledges to have received in money from the said John A. Merle, in consideration whereof he gives him a good and valid quittance and discharge, in order that the said John A. Merle, his heirs, or those having claims under him, may fully enjoy and dispose of the twenty-two parcels of land, by virtue of these presents; he or they conforming themselves to all the conditions and obligations to which the said Henry and Adelaide Matilda Mexia were or might be liable or subject by virtue of the original titles.

Done and executed at New Orleans, in my office, in presence of Edward Lavigne and P. Pascalis Labarre, both of this city, who have signed with the parties and the notary after having read over the same.

Signed, John A. Merle, José Antonio Mexia, E. Lavigne, P. P. Labarre; Amedée Ducatel, notary public.

A true copy.

AMEDÉE DUCATEL,
Notary Public.

Endorsed: Read in evidence on the hearing by defendants.
JAMES LOVE, *Clerk.*

Declaration of John A. Merle in favor of Anthony Blandin.

15 Mai, 1837. Declaration par Mr. John A. Merle, faveur Mr. A. Blandin.

En la ville de la Nouvelle Orléans, dans l'Etat de la Louisiane, ce quinze Mai, mil huit cent trente-sept, l'an soixante et un de l'indépendence Américaine.

Pardevant Amedée Ducatel, notaire public dans et pour la ville et paroisse d'Orléans, en présence des témoins ci-après nommés et soussignés.

A personnellement comparu Mons. John A. Merle, négociant de cette ville. Lequel a declaré que quoique par deux actes en date du dix Fevrier, mil huit cent trente-six au rapport du notaire soussigné il paraisse proprietaire de trois portions de terre, savoir. 1°, onze sitios emplacement d'une lieu, chaque, concédée par le gouvernement de l'Etat de Coahuila y Texas, le sept Mai, mil huit cent trente et un, au citoyen Mexicain, J. Miguel Musguiz, et 2°, onze autres sitios ou portions de terre concédées par le même gouvernement au Sr. M. R. Palacios; et enfin, 3°, onze autres sitios concédé par le gouvernement de

Coahuila y Texas à Mr. P. Varela, lesquelles portions de terre sont plus amplement décrites aux deux sus-dits actes du dix Février, (1836,) la verité est qu'il n'a acquis les dites trois portions de terre que pour le compte de Mr. Antonio Blandin, citoyen du Texas, au profit duquel il fait la présente declaration pour servir et valoir contre qui de droit, le dit Sieur Merle declarant en outre que les dites terres ont été payées des fonds appartenant au dit Sieur Blandin.

En consequence de cette declaration le dit Sieur Blandin est bien et dûment propriétaire des dites portions de terre et pourra en jouir, faire, et disposer comme bon lui semblera, le dit Sieur John A. Merle le substituant et subrogeant dans tous les droits de propriété qui lui etaient acquis par les deux actes au rapport du notaire soussigné.

Dont acte, fait et passé à la Nouvelle Orléans en l'étude, les jours, mois, et an que dessus, en presence de Messrs. Edouard Lavigne et Rosémond de Armas, témoins competens qui ont signé avec le comparant et le notaire après lecture faite.

(Signé) JOHN A. MERLE,
E. LAVIGNE,
ROSÉMOND DE ARMAS.
AMEDÉE DUCATEL,
Not. pub.

Pour copie conforme a l'original.

[SEAL.] AMEDEE DUCATEL, *Not. pub.*

UNITED STATES OF AMERICA,
State of Louisiana.

By Edward D. White, governor of the State of Louisiana.

These are to certify, that Amedée Ducatel, whose name is subscribed to the instrument of writing herein annexed, is now, and was at the time of signing the same, a notary public in and for the city and parish of New Orleans, and that all his official acts, as such, are entitled to full faith and credit.

Given at New Orleans, under my hand and seal of the State, this twenty-seventh day of May, one thousand eight hundred and thirty-seven, and of the independence of the United States the sixty-first. [SEAL.]

By the governor, E. D. WHITE.

MARTIN BLACHE, *Sec'y of State.*

REPUBLIC OF TEXAS,
County of Brazoria.

Before me, W. P. Scott, chief justice and ex officio notary public for the county aforesaid, personally came and appeared Frederick A. Sawyer, who acknowledged and declared that he is acquainted with

the handwrit[ing] of E. D. White, and that the one accompanying the foregoing instrument is signed by himself.

[L. S.] Given under my hand and seal of office, this 13th March, 1838.

W. P. SCOTT,
Chief justice and ex officio not. pub.

Filed for record March 26, 1838, and recorded on pages 143, 144, and 145, in book A, Montgomery county records, April 10, 1838.

GEORGE MORRISON,
County recorder.
By B. B. GOODRICH,
Deputy recorder.

Translation of the foregoing document, 15th May, 1837.

Declaration made by John A. Merle in favor of Anthony Blandin.

In the city of New Orleans, and State of Louisiana, on the fifteenth day of May, one thousand eight hundred and thirty-seven, and the sixty-first of American independence, before me, Amedée Ducatel, notary public in and for the city and parish of Orleans, in presence of the aforementioned and undersigned witnesses, personally appeared John A. Merle, merchant of this city, who declares that, although by two instruments bearing date the tenth of February, one thousand eight hundred and thirty-six, made before the undersigned notary, he, the said John A. Merle, appears to be proprietor of three parcels of land, to wit: 1st, eleven leagues of land granted by the State of Coahuila and Texas on the seventh day of May, one thousand eight hundred and thirty-one, to the Mexican citizen, J. Miguel Murguiz; and secondly, eleven other leagues of land granted by the same government to M. R. Palacios; and 3d and lastly, eleven other leagues of land granted by the government of Coahuila and Texas to P. Varela; which parcels of land are more fully described in the two aforesaid instruments, of date the 10th day of February, 1836. The truth is, that he has only acquired the said three parcels of land for account of Mr. Anthony Blandin, a citizen of Texas, for whose profit he makes the present declaration to serve and be valid against all claims. The said Merle also declares said lands have been paid for out of funds belonging to said Blandin. In consequence of which declaration, the said Blandin is really and truly proprietor of said parcels of land, and can enjoy, make, and dispose of them as may seem fit to him; the said John A. Merle substituting and subrogating him to all the rights of property which he had acquired by the said two instruments made before the undersigned notary.

Done and passed at my office in New Orleans the day, month, and year before written, in presence of Edward Lavigne and Rosémond de

Armas, competent witnesses, who have signed with the party and the notary after reading the same.

(Signed) JOHN A. MERLE,
E. LAVIGNE,
ROSEMOND DE ARMAS,
AMEDEE DUCATEL,
Not. Pub.

A true copy from the original.

AMEDEE DUCATEL,
Notary public.

The words "said lands" interlined by the translator.

EDWARD PURCELL.

Endorsed by the clerk: Read in evidence by the defendants.

JAMES LOVE, *Clerk.*

Testimony of James Love.

HAMMEKIN AND WIFE
vs.
N. HOYT ET ALS.

Be it remembered, that on the hearing of this cause James Love was called as a witness on the part of the defendants, and having been duly sworn, deposed and said as follows: I am acquainted with Mrs. Hammekin, one of the complainants in this cause; I was acquainted with her in 1839 and 1840; she was not then grown, and was about fourteen years of age in 1839.

JAMES LOVE.

And the above testimony was therefore reduced to writing, as above stated.

JAMES LOVE, *Clerk.*

JUNE 30, 1851.

THE UNITED STATES OF AMERICA,
District of Texas, to wit.

District court, May term, 1851. In chancery.

Original bill.

Between GEORGE L. HAMMEKIN and Adelaide Matilda, his wife, complainants,
and
NATHANIEL HOYT, James Blandin, and William C. Hudson and Josephine, his wife, and Elisha M. Pease, defendants.

Be it remembered, that, on this 7th day of July, 1851, this cause

came on to be heard and finally determined, before the honorable John C. Watrous, judge, &c., upon the original bill as amended, the plea thereto, the replication to the said plea, and the evidence adduced; and upon the amended and supplemental bill, the answers thereto, the replication to the answer of said defendants, Hoyt, Blandin, and Hudson and wife, the replications to said answers, and the evidence adduced; and upon the amended and supplemental bill, and the answer of the defendant, Pease, thereto, in presence of counsel for both parties; his honor thereupon thought fit to order, adjudge, and decree, and it is accordingly ordered, adjudged, and decreed, that the conveyance attempted to be made by José Antonio Mexia, by authenticated act before a notary public, in the city of New Orleans, on the 10th day of February, 1836, mentioned in the pleadings of the eleven leagues of land in contest, and the subsequent conveyances under which the defendants pretend to hold or claim the said eleven leagues of land adversely to the complainants, are and were, when executed, absolutely void.

And it is further ordered, adjudged, and decreed, that the said defendants, Hoyt, Blandin, Hudson and wife, the administrators and heirs of James Blandin, deceased, and the said defendant, Elisha M. Pease, be, and they are hereby, perpetually enjoined from and prohibited setting up title or claim, in any manner whatever, in or to the said eleven leagues of land, or any part thereof.

And it is further ordered, adjudged, and decreed, that the defendants, except said Elisha M. Pease, pay the costs in this cause to be taxed, &c.

JOHN C. WATROUS.

From which said decree, so as aforesaid made, the said defendants, Nathaniel Hoyt, William *C.* Hudson and Josephine, his wife, James Blandin, and Elisha M. Pease, by their solicitors aforesaid, have prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday of December next, in the words following, to wit:

GEORGE L. HAMMEKIN and Adelaide Matilda, his wife, complainants,
vs.
NATHANIEL HOYT, James Blandin, William *C.* Hudson and Josephine, his wife, and Elisha M. Pease, defendants.
} No. 27. In chancery.

JAMES LOVE, esq., *clerk, &c.*

Please to enter an appeal from the district court of the United States, for the district of Texas, this day made in the above entitled cause, among other things, annulling the conveyance of José Antonio Mexia, and the subsequent conveyances mentioned and referred to in the said decree, and enjoining the said defendants from setting up title or claim

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to the eleven leagues of land in the said decree mentioned, or any part thereof, and adjudging that the defendants, except said Elisha M. Pease, pay the costs in said decree to be taxed.

MERRIMAN, ALLEN & HALE,
Solicitors for defendants.

July 7th, 1851.

And to them it is granted. Whereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court; and the same are transmitted accordingly.

And afterwards, on the twelfth day of July, A. D. 1841, the following order was passed by the court, to wit:

GEORGE L. HAMMEKIN and WIFE,
vs.
NATHANIEL HOYT et als.

On this day the defendants presented, in open court, the bond of defendants, for an appeal from the decree rendered in this cause. It is agreed by the parties that the bond is sufficient. It is, therefore, approved by the clerk, and ordered to be filed.

And thereupon the defendants, on the same day, the twelfth day of July, A. D. 1851, by their counsel, filed their said bond, in the words, and of the tenor following, to wit:

Know all men by these presents, that we, Nathaniel Hoyt, James Blandin, William M. Hudson and Josephine, his wife, as principals, and James P. Collins and S. L. Jones, as sureties, are held and firmly bound unto George L. Hammekin and Adelaide Matilda, his wife, in the full sum of five hundred dollars, to be paid to the said Hammekin and Adelaide Matilda, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this tenth day of July, in the year of our Lord one thousand eight hundred and fifty-one.

Whereas lately, in the district court of the United States, for the district of Texas, it was ordered, adjudged, and decreed, in a certain cause then pending, wherein the said George L. Hammekin and Adelaide Matilda, his wife, were complainants, and the said Nathaniel Hoyt, James Blandin, William *C.* Hudson and Josephine, his wife, and Elisha M. Pease, were defendants, among other things, as follows, viz., "that the conveyance attempted to be made by José Antonio Mexia, by authenticated act before a notary public, in the city of New Orleans, on the 10th day of February, 1836, mentioned in the pleadings of the eleven leagues of land in contest, and the subsequent conveyances under which the defendants pretend to hold or claim the said eleven leagues of land adversely to the complainants, are and were, when executed, absolutely void; and that the said defendants, Hoyt, Blandin,